

# EXHIBIT TT

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

- - - - - x

ALONZO GRANT and STEPHANIE GRANT,  
  
Plaintiffs,

-against-

CITY OF SYRACUSE, SYRACUSE POLICE DEPARTMENT,  
POLICE OFFICERS DAMON LOCKETT AND PAUL  
MONTALTO, POLICE OFFICER BRIAN NOVITSKY, CHIEF  
OF POLICE FRANK FOWLER and Does 10-100,

Defendants.

- - - - - x

160 Broadway  
New York, New York

July 26, 2016  
10:45 a.m.

**DEPOSITION** of **JOSEPH LEO LIPARI**, a  
  
Non-Party Witness in the above-entitled action,  
  
held at the above time and place, pursuant to  
  
Subpoena, taken before Jennifer M. Juliani, a  
  
shorthand reporter and Notary Public within and  
  
for the State of New York.



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A p p e a r a n c e s :

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DEPARTMENT OF LAW CORPORATION COUNSEL  
Attorneys for Defendants  
233 E. Washington Street,  
City Hall Room 300  
Syracuse, New York 13202  
BY: JOHN A. SICKINGER, ESQ.

ALSO PRESENT:  
Ilse Wolfe

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED  
by and between the attorneys for the  
respective parties herein, that filing,  
sealing and certification be and the same  
are hereby waived.

IT IS FURTHER STIPULATED AND AGREED  
that all objections, except as to the  
form of the question shall be reserved to  
the time of the trial.

IT IS FURTHER STIPULATED AND AGREED  
that the within deposition may be signed  
and sworn to before any officer  
authorized to administer an oath, with  
the same force and effect as if signed  
and sworn to before The Court.

J O S E P H L E O L I P A R I, the witness  
herein, having been first duly sworn by  
a Notary Public of the State of New  
York, was examined and testified as  
follows:

EXAMINATION BY

MR. RYDER:

Q Can you state and spell your full  
name for the record, please?

A Joseph Leo Lipari; J-O-S-E-P-H,  
L-E-O, L-I-P-A-R-I.

Q And if you could please state  
your current address for the record, please.

A So I just signed a lease. It's  
527 East 83rd Street, Apartment 5-W, zip code  
is 10028. I'll technically be living at that  
address this weekend.

Q Okay. Hello, Joe. My name is  
Jesse Ryder. I'm an attorney for the  
plaintiffs.

A Good morning.

Q Have you ever done a deposition  
before?

A Yes.

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Q So you are familiar with some of the general rules like speaking clearly, answering in the affirmative, waiting until we conclude our question before you give us an answer, some of the basics?

A Yes.

Q We've already got your name on the record, but would you please spell that for us?

A J-O-S-E-P-H, L-E-O, L-I-P-A-R-I.

Q Joseph, what do you do for a living currently?

A I'm currently the senior policy manager for the Office of the Inspector General for the NYPD. That's an agency that is under the umbrella organization of the Department of Investigations for the City.

Q What is the address; do you know the address off the top of your head for your employer?

A 80 Maiden Lane.

Q Here in Manhattan?

A Here in Manhattan, yeah.

14th Floor.

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Q Prior to your position here in Manhattan with the NYPD, who was your employer?

A The City of Syracuse. I was the administrator for the Citizen Review Board.

Q How long were you in that position, Joe?

A Almost exactly four years. From May 16, 2012 until May -- mid May of 2016.

Q Give us your educational background, Joe.

A I received my bachelor's degree in anthropology and a minor in political science at Louisiana State University in 2000. I received my master's degree in history, University of Illinois at Chicago in 2005, I believe. And I nearly completed the Ph.D also at University of Chicago in history. I was at the status of what they call ABD, all but dissertation, about a chapter-and-a-half away from completing the dissertation.

Q Okay. So you stated that your position at the Syracuse CRB was the

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administrator, correct?

A Correct.

Q Had you held any other positions with the CRB prior to becoming the administrator?

A No.

Q Can you explain generally the responsibilities of the administrator of the CRB while you were in Syracuse?

A So the administrator essentially facilitates the entire process. Conducting investigations, managing the administrative responsibilities of the office, conducting community outreach, managing the board members and the various meetings and hearings that the board holds, reporting to the council when asked to do so. Those are the main tasks.

Q Can you explain, if you know, how the CRB is empowered under law; do you understand that process?

A Sure.

Q Okay.

A So --



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MR. SICKINGER: Object to  
form.

A Local law, now it's one of 2012;  
used to be local law 11 of '93, 1993 I  
believe. The current law empowers the board  
to conduct independent investigations,  
authorizes -- authorize the CRB with subpoena  
power to acquire documents, or to compel  
cooperation from witnesses, and we ultimately  
make the board members make a finding in a  
case.

First they decide whether to send  
the case to a hearing. If they send it to a  
hearing then they -- three members of the  
panel sit on that hearing. Three members of  
the board sit on that hearing panel and make  
-- and determine whether to sustain the  
allegation of misconduct against the officer  
or officers. And if they do so, then they  
can make a disciplinary recommendation to the  
chief of police.

And then the administrative --  
the administrator, the role is to write a  
letter to the chief, to the subject officer

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1 and to the complainants explaining what the  
2 outcome of the hearing was. And if there's  
3 no hearing, what the outcome of the case in  
4 general was.  
5

6 Q Was Chief Frank Fowler employed  
7 as the chief of police during your -- the  
8 time that you were the administrator of the  
9 CRB?

10 A Yes.

11 Q For the entire time?

12 A For the entire time, yeah.

13 Q Was Stephanie Miner the mayor of  
14 Syracuse during your entire tenure as the  
15 administrator of the CRB in Syracuse?

16 A Yes.

17 Q This is a little bit of a broad  
18 question, but let's see if you can answer  
19 this generally. In your knowledge, what is  
20 the purpose of the CRB or Citizen Review  
21 Board generally; what is the purpose of that?

22 MR. SICKINGER: Object to  
23 form.

24 A The purpose is to maintain a  
25 independent investigative system that

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investigates complaints against police and comes to an unbiased finding and makes disciplinary recommendations in individual cases, but also policy and training recommendations to the department as a whole, to the City as a whole.

Q Can you explain to me what the procedure is for processing a citizen complaint at the CRB?

MR. SICKINGER: Object to form.

A So complaints could come in one of two ways. Either directly to the CRB as a walk-in, as a phone call, or completing a complaint form. Ultimately, first the complainant has to complete a complaint form and sign the complaint form so it can come directly to the CRB or it can come -- it can be filed with the Office of Professional Standards within the Police Department. Either way, if they get it, they have to give a copy to us.

We -- if the CRB were to receive it, then the CRB has to give the copy to

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Office of Professional Standards. Once the complaint is received, usually within a couple of weeks we would begin receiving documents from the department; police reports, evidence technician photographs, use of force reports if it was a use of force incident, any other documents relevant to the case we would receive from the department. Then we would begin to conduct our own separate investigation.

I would, after reviewing the documents I received from the department, interview witnesses, perhaps identify additional witnesses, conduct the site visit to the scene, take photographs if necessary, look for any additional video evidence, photographs, audio, gather all of the evidence I can, evaluate the evidence, compose a investigative report, then I provide that report or the administrator provides that report to the board members prior to that month's board meeting.

The board members review the report and they can ask for any evidence from

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1 the file if they want to see any. And then  
2 at the board meeting each month, we go into  
3 executive session where the board members  
4 vote on whether to send the case to a hearing  
5 or not. If it goes to a hearing, I would or  
6 the administrator then schedules the hearing  
7 with the complainant, with the officers, with  
8 any other witnesses, although typically, the  
9 officers do not participate in the hearing  
10 even though they were invited.

12 And then at the hearing itself,  
13 the administrator facilitates the hearing by  
14 introducing everyone and kind of laying out  
15 the ground rules. But a chair of the panel  
16 from the membership actually runs the  
17 hearing. And then in that hearing, the  
18 complainant and the witnesses are questioned.  
19 They give their accounts of what happened  
20 from their perspective and then the panel  
21 members ask questions of the complainant and  
22 witness. And then we let them -- the  
23 complainant and witnesses depart and the  
24 three panel members deliberate for as long as  
25 they need to come to a finding and then they

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1  
2 communicate that finding to the administrator  
3 and there -- if they -- if they did sustain  
4 anything, they would communicate the  
5 disciplinary recommendation as well through  
6 the administrator and then the administrator  
7 would compose a letter to the chief, to the  
8 officers involved, and complainant explaining  
9 what the outcome was.

10 Q Okay. Thank you very much.

11 A Sure.

12 Q So you mentioned that there were  
13 complaints filed. Were the complaints filed  
14 either with the Police Department or with the  
15 CRB?

16 A Correct.

17 Q That's how an investigation could  
18 be initiated, correct?

19 A Correct.

20 Q Was there any timeframe on the  
21 sharing of these complaints between agencies,  
22 between the Police Department or between the  
23 CRB back and forth, were there timeframes  
24 outlined in the enabling legislation that  
25 bound the agencies to adhere to these

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2 timeframes to share this information?

3 MR. SICKINGER: Object to  
4 form.

5 A Yes. In the ordinance the Office  
6 of Professional Standards is required to  
7 provide the entire case file they have, the  
8 case, to the CRB within thirty days and then  
9 the CRB is directed to complete their process  
10 within sixty days of the complaint being  
11 filed. Those are the two main timeframes.

12 And then once the CRB provides  
13 the finding to the chief of police, he has  
14 to -- he or she would have to respond in  
15 writing to our findings and -- CRB's finding  
16 and recommendations within thirty days.

17 Q You mentioned just previously  
18 that officers did not generally attend these  
19 CRB hearings although they were invited. Was  
20 it -- would it have been helpful to the CRB  
21 to have officers attend these hearings  
22 generally to get their side of the story and  
23 these -- during these hearings?

24 MR. SICKINGER: Object to  
25 form.

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1                   A        It's hard to say generally. I --  
2  
3       I do think, you know, there would certainly  
4       be cases where the panel members would have  
5       liked to question the officers, absolutely.  
6       But, you know, the panel members would get,  
7       you know, all the written documents from the  
8       department which would include the officer's  
9       written report, police report. The board  
10      would also get what is called 10-1 statements  
11      from the police officer. That's a written  
12      memo responding to some aspect of the  
13      complaint.

14                        So we would have the officer's  
15      perspective in writing, the subject involved  
16      officer, but we just wouldn't have -- we  
17      didn't have the benefit of having the officer  
18      in front of the panel where they could  
19      question them and read the body language and,  
20      you know, the typical things you do in a  
21      question scenario, questioning scenario like  
22      that hearing.

23                        So yeah, I think generally, and,  
24      you know, the board was working to go get  
25      officers to attend the hearing because we



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generally felt that it would be beneficial to the process to have the officer's input and -- directly and be able to be forced to respond to the questions.

Although had the officer attended, they -- our understanding was they could essentially take the equivalent of the Fifth Amendment and not directly respond to questions, so they could bring their attorney with them.

So the CRB's approach has been for those four years under my tenure, we initially decided not to subpoena officers to the hearings because we knew the prior CRB did that and the union fought it, got an injunction from a judge to stop the subpoenaed officers to hearings. So we decided we didn't want to start right off in an adversarial manner by subpoenaing officers, so we tried to demonstrate to the department that our process was fair, that it wasn't a witch hunt, that we wanted to hear from the officers. So we tried to give them a year or two to get used to this new CRB,

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1 and hopefully -- we were hoping they would  
2 start coming to the hearings, but that never  
3 happened.

4  
5 We had one officer attend a  
6 hearing and unfortunately for that hearing,  
7 it involved a video conference with an inmate  
8 at a correctional facility and the -- that  
9 was -- it was a new technological system for  
10 that prison at that time and it didn't work  
11 that day that we had that hearing scheduled.  
12 So the officer -- we couldn't hold the  
13 hearing that day. He left. By the time we  
14 got it rescheduled and were able to do the  
15 hearing in person, the officer had decided  
16 not to participate in the hearing. And we  
17 were -- we, you know, understood.

18 I think the president of the  
19 union at one point -- the president of the  
20 union -- I don't want to misspeak here. Let  
21 me -- we learned through the course of the  
22 four years that officers were discouraged  
23 from participating in the CRB process,  
24 whether it was a union policy or just sort of  
25 informal discouragement.

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2 Either way, we never had officers  
3 successfully attend the hearing.

4 Q So you mentioned that in your  
5 four years of tenure, one officer had  
6 attempted to attend but then had changed his  
7 mind when the hearing had kind of fallen  
8 apart because of technical problems?

9 A Correct.

10 Q You mentioned your title as  
11 administrator. You -- I've heard you use the  
12 word chairman, or chairperson, something  
13 along those lines. I heard you mention board  
14 members. Just explain to me basically the  
15 structure of the CRB.

16 MR. SICKINGER: Object to  
17 form.

18 A Sure. So the administrator and  
19 the administrative assistant are the  
20 full-time employees of the office. Then  
21 there are eleven volunteer board members who  
22 are appointed by the mayor and the common  
23 councilors. Three board members are  
24 appointed by the mayor, five are appointed by  
25 each of the district councilors, and then

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three are appointed by the at-large councilors. And then the membership itself elects the chair and the vice chair -- the chairman and the vice chairman. And the chairman runs the board meetings, helps develop the agenda for each board meeting, and has kind of the day-to-day interaction with the administrator. Kind of who the administrator has the most interaction with, I guess. And ultimately, the administrator reports to the board. The board hires the administrator and the board can fire the administrator.

Q During your tenure, did you have the same board members throughout that four years or did that change?

A No, that changed.

So they were on staggered terms. Each board member serves a three-year term and they can serve up to two terms, so when they started -- when they made these appointments, when the common council made these appointments, they staggered the first appointment so that they wouldn't all come up

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on the same year due for reappointment. So we had, you know, at least one or two, sometimes three new board members a year. Board members, their term can end, they can leave the board, they could resign just for personal reasons or family reasons. There was one or two in the early stages that didn't show up for meetings and so we had them removed essentially; they ultimately resigned.

So there is a number of different ways that turnover is created on the board. But I had -- I think there were three board members who are still on the board that were there when I first started in 2012, so there's been a fair amount of turnover.

Q Do you know the process for selecting these volunteer board members from the community; do you know that process?

MR. SICKINGER: Object to form.

A It's essentially up to the selector, the -- either the mayor or the common councilors. You know, there's a --

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1 and there's application process. We would  
2 notify -- you know, we would make a public  
3 notice, there was a vacancy and then people  
4 could turn in their applications. We would  
5 make sure -- my office would make sure that  
6 the people making the appointment would  
7 receive those resumes. And some of the  
8 appointors wanted more assistance than others  
9 and some, you know, could -- could select  
10 someone, find an appointment to the board on  
11 their own, but I would offer as much, you  
12 know, assistance as possible. But it's  
13 ultimately up to the elected officials, the  
14 mayor and the common councilors to make that  
15 selection.  
16

17 So in terms of how each  
18 individual decision was made, I can't really  
19 speak to that; that would be between the  
20 elected official and that of the person who  
21 is appointed.

22 Q Now, do you know, are these board  
23 members selected from within the City of  
24 Syracuse residents, or are they the county,  
25 or how is that -- how does the residence play

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into that?

A They have to be -- I'm sorry. They have to be a Syracuse City resident, correct, and they have to be over eighteen, they can't have an immediate family member who is a police officer or any kind of law enforcement, they can't have an immediate family member who is an elected official in Syracuse, and they can't have -- be or have an immediate family member who has a lawsuit against the City, the police union, or the Police Department.

Q Okay. I'm just going to ask some more questions on this, okay, because this -- now we've narrowed down this pool of City residents, range of particular ages, and we have certain criteria that excludes them. But can you speak to the diversity of the members of the board as far as their ethnic background and their educational background and their professional background?

A Sure. It was a pretty diverse group. We had white, African-American, male, female, straight, gay, transgender, we had a

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young man of Indonesian descent recently appointed, also a good diversity in terms of background and experience.

You know, we had people, everyone from a CEO of a capital management firm to a homemaker and everything in between. We had secretaries, we had people who were involved in community development. Anyone who, you know, had a commitment in the City of Syracuse and was willing to do a good bit of work without getting paid; it was all volunteer. What else did you ask about the makeup of the board?

Q I think that's -- that covers it. I think you covered what we were asking.

During your tenure, were any of the members of the board either attorneys or judges or somebody employed in the legal field?

MR. SICKINGER: Object to form.

A Three of the board members were attorneys. I think that's -- I believe that's it. Yeah, three were attorneys.



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Q All right. What is the process when the CRB board members sustain a finding of misconduct or a violation of any constitutional rights on behalf of a citizen in the City of Syracuse; what is the process at that point?

MR. SICKINGER: Object to form.

A So that would come out in the hearing process. After they deliberate, they would communicate to the administrator what their finding was and sort of the logic of it, why they decided the way they did. Then if they sustained it, they would develop a disciplinary recommendation.

We did develop certain points in that four years, like around year two or three, what's called a disciplinary matrix, so it's kind of a chart that gives you kind of guidelines for what discipline to impose. We had asked the Police Department if they had a disciplinary matrix, we would like to be able to use it, consistent matrix or chart to recommend discipline, make it consistent

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with what the department had. They did not have a disciplinary matrix.

My understanding is we developed our own disciplinary matrix to keep our recommendations consistent with the nature of each case. So the panel may consult that matrix, tell the administrator what -- and they would discuss it among themselves. You know, someone would suggest a disciplinary recommendation and then others would kind of chime in and they deliberate, discuss what they felt was fair, what they felt was consistent with the matrix.

Progressive discipline was necessary if this was an officer who we had multiple complaints on or had sustained complaints against them in the past and that would be taken into consideration when they would develop their disciplinary recommendation.

So once they made a decision on what to recommend, they would communicate that to me as the administrator, and then I would put that into a formal letter to the

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chief of police and the chief would get a copy of that letter, and then I would do another letter to the officer or officers, and then a finding letter also to the complainant.

I should say, earlier you asked me the timeframes, where there are sort of deadlines. I forgot to mention within one day of the hearing being completed, the CRB was directed to provide the findings, the finding letter to the chief within -- within one business day, so that was one I forgot to tell you.

So, yeah, we would then provide that to the chief and the officer and the complainant and then the chief within thirty days is supposed to provide the -- write a letter in response to us telling us his disciplinary decision in that case. And if no discipline was -- if he imposed discipline, he was supposed to tell us why this one was imposed. If he did not impose discipline, he was supposed to tell us the reasons why no discipline was imposed.

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And that's all from the ordinance.

Q Now, are you aware of the fact that police officers have to take an oath to uphold the constitution in order to be hired as police officers?

MR. SICKINGER: Object to form.

A Sure, yes.

Q And are you aware of the fact that if the CRB makes an allegation of excessive force, false arrest or untruthfulness, those are very serious allegations and most would go to the heart of constitutional violations of the citizens of the City of Syracuse?

MR. SICKINGER: Object to form.

A I mean, I can say that I -- you know, I and the CRB during my tenure took all three of those categories very seriously. Excessive force was -- the first three years or so was the most common complaint we would have, although that went down towards the end

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of that four years. Untruthfulness was an issue we -- we looked at very carefully for every case. What was the other, false arrest?

Q Untruthfulness, false arrest, excess force. And these are just examples of allegations of violating citizens' constitutional rights. And I just want to make sure that you understand that these police officers do take an oath to uphold the constitution, correct?

MR. SICKINGER: Object to form.

A Sure, absolutely.

Q And I want to know if you understand that allegations of excessive force, false arrest, and untruthfulness in the course of their employment would be a direct violation of a citizen's constitutional rights; do you understand that?

MR. SICKINGER: Object to form.

Mr. Ryder, I gave you great

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leeway in going --

MR. RYDER: You can put your objections on the record, but are you going to instruct him not to answer questions?

MR. SICKINGER: I'm telling you, you're in violation of the Court's June 28th order. And if you want to continue in this line of questioning, I'll call the magistrate.

MR. RYDER: And that's fine. You can call him right now.

MR. SICKINGER: It's her --

MR. RYDER: You can call her right now.

MR. SICKINGER: -- so that shows your knowledge of the case.

MR. RYDER: You can call her right now.

MR. BONNER: Let's go off the record.

(Whereupon, a discussion was held off the record.)

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MR. RYDER: For the record,  
I am reading from Judge Danks'  
(phonetic) June 28th order, 2016.  
Mr. Lipari's deposition shall be  
limited to the documents  
previously produced regarding the  
CRB investigation of the arrest  
that is the subject of this  
lawsuit and the redacted  
documents being produced in  
accordance with this order.  
Additionally, questioning of Mr.  
Lipari regarding the documents  
being produced in accordance with  
this order shall only involve  
questions pertaining to any  
complaints to the CRB involving  
sustained substantiated claims of  
excessive force, false arrest,  
and false imprisonment by any  
officer supervised by defendants  
Novitsky and/or Fowler.  
Complaints that may be addressed  
in the redacted documents

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concerning any other behavior  
shall not be permitted.

MR. BONNER: And that also  
includes untruthfulness.

That's the order. Now, if  
you want to make objections as we  
go through, you can certify the  
question. We can argue it to the  
Court later. But let's again go  
forward in the interest of --

MR. RYDER: The last  
question that I read was getting  
into that. I think I got what I  
needed there.

MR. SICKINGER: I'm not  
trying to prolong this. I've got  
a flight to catch. I don't want  
to go down there right --

MR. RYDER: How about we  
make a list?

MR. SICKINGER: I will allow  
you to ask this question. Note  
my objection until we can get the  
magistrate on the phone. But I



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2 would prefer if we just --

3 MR. RYDER: Simpler too for  
4 you. So I just -- my question  
5 was --

6 Okay, go ahead. I'm sorry.  
7 Attorney Jesse Ryder back on the  
8 record.

9 MR. SICKINGER: Just note my  
10 continuing objection to the  
11 question.

12 MR. RYDER: My question,  
13 Joe, simply was, do you  
14 understand that the allegation of  
15 excessive force on behalf of a  
16 police officer, false arrest,  
17 untruthfulness, that each of  
18 those allegations would be a  
19 violation of a citizen's  
20 constitutional rights, yes or no?

21 A Yes.

22 MR. RYDER: Now, go back on  
23 record.

24 Q You mentioned something earlier  
25 before this -- we were -- had this debate.

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You mentioned that you had noticed a pattern of excessive force early on in your tenure. Is it part of your job as the administrator of the CRB to recognize patterns in police misconduct?

MR. SICKINGER: Object to form.

A I think what I said was we noticed excessive force was one of our highest -- the highest category of a complaint intake. I don't think I used the word pattern, but we did notice there was a large -- it was most -- largest category of complaints that we were receiving in the first couple of years.

Q Would it be part of your job as administrator to look for patterns of behavior among the police officers?

MR. SICKINGER: Object to form.

A Sure, yes.

Q Okay. Now on to the recommendations made by the CRB to the police chief. What range of recommendations would

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the CRB empower to make?

MR. SICKINGER: Object to

form.

A Anything from training to termination of the officer and everything in between. So it could be training, it could be a verbal warning such as counseling, it could be written reprimand, a letter of -- a letter in the officer's personnel file. Then you could get into demotions, you have time off, you know, suspension without pay, and then termination.

It's essentially the range of options that are open to the chief of police we could -- chief of police we could recommend.

Q During your four years, had you made recommendations throughout this entire range on various cases?

A Oh, yes.

Q Okay. I'm handing you a document previously marked as Exhibit 12 and this document is entitled, in the matter of Alonzo Grant versus Syracuse police officers'

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allegations of misconduct, excessive force, false arrest, and untruthfulness. And at the top of this document it is entitled, Citizen Review Board Stephanie A. Miner.

Do you recognize that document?

A Yes, this is the finding letter that we sent to Mr. Grant after the conclusion of his hearing.

Q And isn't that your name and signature at the bottom of that document?

A Yes.

Q Did you recall this particular case?

A Yes.

Q In your recollection, best of your ability, what were Mr. Grant's complaints?

MR. SICKINGER: Object to form.

A Essentially the complaint consisted of he had called police, it was a dispute involving his daughter. I forget exactly what he called the police for, if it was to remove the daughter or just to resolve

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1 the dispute. But by the time the officers  
2 arrived, I believe the daughter was no longer  
3 on scene. There was some discussion. At  
4 some point he is, I believe directed by the  
5 officer to go outside. He goes through the  
6 door. This is what was alleged in the  
7 complaint. And then he alleged in the  
8 complaint that the officer essentially took  
9 him down while he was going down the steps  
10 and struck him multiple times about the face  
11 and I think other parts of the body. And  
12 that he -- all he had done was push the door  
13 open from his account. And so it was  
14 essentially a complaint of excessive force.

15 Then he was -- I think he was  
16 charged. I forget what the charges were  
17 against him, but I think he was charged. So  
18 I think he was probably -- I think he was  
19 complaining about false arrest as well. That  
20 was the -- to the best of my recollection,  
21 that was the initial aspect, components of  
22 his complaint.

23 Q You mentioned earlier the process  
24 of your investigation, correct?  
25

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A Yes.

Q Did you conduct what you would consider a full investigation in this case?

MR. SICKINGER: Object to form.

A Yes.

Q Briefly give us a -- an idea of exactly what you did in the course of your investigation.

MR. SICKINGER: Object to form.

A And this is just as much as I can recall without having my -- the file in front of me.

So I remember receiving video of interviews, I think Mr. Bonner had done with Mr. Grant, reviewed those, which is not uncommon to have other statement prior to my ability to question someone. So I wanted to have access to whatever has already been put on the record.

So I reviewed those, developed my own questions, scheduled a time to go to the site, to the house where it happened, sit

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1 down with all the individuals involved and  
2 witnesses. And we met at a certain day and  
3 time. I think -- I believe it was in the  
4 evening. Still daylight outside. And  
5 they -- all the people who were there, see if  
6 I can remember everyone, I don't remember all  
7 the names. Mr. Grant, his wife Stephanie,  
8 there were at least three other witnesses in  
9 the room; I don't remember their names. I  
10 remember one was the young man who was  
11 outside who gave testimony about what he saw.  
12

13 So I took testimony from each of  
14 them, asked them questions. We kind of  
15 reenacted, had them sort of reenact the scene  
16 for me, kind of explaining from their  
17 perspective what they remember, how it all  
18 happened and interjected questions. So I  
19 think I was there for a couple hours.  
20 Reviewed the police reports with them. I  
21 think that was mostly the activity -- most of  
22 the activity on that day.

23 Then after the interviews --  
24 well, even before the interviews I would have  
25 had access to the police reports, the

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photographs, I went through all of those carefully. There was some -- I think there was some media reporting at the time so I was going to be sure I was reading the newspaper reports just to make sure I was aware of everything that was out there. There could be some other steps in there that I took that I can't think of at the moment, but those would be the most important. Then I would -- once I had all of the information together from the police file, from the Office of Professional Standards file, interviewed the complainant and all the witnesses, my next step would have been to identify any inconsistencies between the various accounts.

I can't remember it for sure but often I would have -- I can't remember for sure in this case, but often I would have follow-up phone conversations with people to clarify any of those inconsistencies I may have found. Sometimes I sit down with the individuals in person. But again, I can't remember if I had to do that in this case.

And so then once I felt like I



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1 had everyone's account, all of the  
2 information that was available, resolved --  
3 and I resolved inconsistencies, but I got  
4 accounts from everyone relative to those  
5 inconsistencies, then I would put my  
6 investigative report together and prepare to  
7 provide it to the board members.  
8

9 Q And do you recall if you  
10 recommended a hearing in this case?

11 MR. SICKINGER: Object to  
12 form.

13 A I believe I did recommend a  
14 hearing for this case, yes.

15 Q You mentioned earlier that you  
16 believe Alonzo Grant was charged with various  
17 offenses?

18 A Yeah, I think he was charged,  
19 yes.

20 Q Do you recall if Mr. Grant was  
21 prosecuted for any of those charges?

22 MR. SICKINGER: Object to  
23 form.

24 A I recall that the charges were  
25 dropped at some point, so yeah, he was

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2 charged, but I don't know -- I don't think it  
3 went to trial. I think the DA just dropped  
4 the charges at some point.

5 Q And as part of your investigation  
6 or as part of the hearing, you offered the  
7 officers an opportunity to testify?

8 A Yes.

9 Q Do you recall if they did?

10 A They did not.

11 We sent them a standard letter  
12 that we send all officers inviting them to  
13 participate in the hearing.

14 Q Who else testified; do you  
15 recall? And I know it's been some time, so.

16 A Yeah, it's been a couple years.

17 There were -- I remember there  
18 were, like, several witnesses for this case.  
19 The young man who was outside, I'd recognize  
20 his name if I heard it. He testified. I  
21 think the -- I know the daughter; they had a  
22 couple of daughters, at least two. One, if  
23 not two of them testified at the hearing.  
24 Then, of course, Mr. Grant, Stephanie  
25 testified. So that's what, that's four or

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five right there. May have been one or two others that -- witnesses that testified. Those are the specific ones I can recall.

Q Do you recall the findings of the panel after the hearing?

MR. SICKINGER: Object to form.

A The panel did sustain the allegations that were presented and I have the finding letter in front of me, so I could -- helps me recall what the actual allegations were. Excessive force, false arrest, and untruthfulness. They sustained excessive force, false arrest against the two responding officers who were initially on scene and took Mr. Grant down and used force on him, and then they also sustained untruthfulness against those two officers.

In addition, a responding sergeant who provided a statement in his use of force report that the panel ultimately did not find compelling or truthful, so they sustained untruthfulness against the two responding officers and the sergeant.

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Q Okay. So in accordance with what you told me earlier, you have a very limited window in order to provide your findings to the chief of police, correct?

A Yeah. I think the ordinance directed within one business day.

Q Did you follow through on that?

A I can't remember for this case. There were -- I know there was a period where there might be two or three days that would go by. I can't remember if that was before or after this case, before we would get the finding in.

Some of these, you know, the finding letter to the complainant is very -- it's a form letter, you know, it's just pretty standard. But the finding letter to the chief is -- it's a -- can be a very fairly complicated legal document, so sometimes I would need more than one day to write it all out for him, all of the, you know, the laws that were at play, the policies that were at play, thinking, the logic of the panel members. So those letters

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had to be written very carefully.

There were times I know where we would pass that one business day. I can't recall for this particular case if it was -- well, we have -- if we look at the dates on the hearing date and then the date that we sent -- that's on the letter to the chief, that would tell us one business day or two or three. Wouldn't have been more than -- I wouldn't think it would be more than a week that went by.

Q Let me ask you this: If you did not supply that document to the chief of police within that one business day, would that create any further issues with cooperation between CRB and the chief of police?

MR. SICKINGER: Object to form.

A There was nothing in the ordinance that laid out any consequences or further action if those deadlines weren't met, whether it was a thirty-day deadline, sixty-day deadline, a ninety-day deadline.

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On a separate issue in terms of our sixty-day timeline to complete a case, we had our outside legal counsel look at what it meant in the ordinance, for the ordinance to say, CRB shall complete this. And according to his legal research and his understanding, that language, shall, was directory and not mandatory.

It means you were -- our understanding was you aim to meet those dates, those timeframes, but if you went beyond that, there was no consequence, no negative consequence or anything that happened if you did not meet those deadlines.

Q Do you recall if these deadlines were met in this particular case with Alonzo Grant?

A I do not recall. I'm almost positive -- no, I'm not even positive about that. I was going to say we might have gone past the sixty-day timeframe to hold the hearings for this case, but I'm not even sure that we got it done within sixty days.

Q That's okay. I understand some

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time has gone by. And we were not provided with all the documents that we had originally requested for various reasons.

A Right.

Q Is it fair to say that you did supply the hearing -- findings of the hearing to the chief at some point?

MR. SICKINGER: Object to form.

A Absolutely, yes, sir.

Q Did you provide those to the mayor?

MR. SICKINGER: Object to form.

A They would go -- a copy of the original would go to the chief and a copy would go to Corporation Counsel's office which the ordinance required us to do. We would not send a copy of the findings directly to the mayor. We would send them to Corporation Counsel. We were not required by anyone to send it to the mayor; just Corporation Counsel and chief.

Q Understood.

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You mentioned another deadline,  
the chief has thirty days to respond to your  
recommendations --

A Correct.

Q -- of the board?

A Yes.

Q Do you recall if the chief  
responded?

MR. SICKINGER: Object to  
form.

A I don't recall if he responded to  
this. There was a period, we sort of went in  
and out of periods with the chief where he  
was responding in writing to our findings.  
Early on it was very difficult to get those  
letters from the chief as it was required in  
the ordinance, so we over several months, a  
year or so, we kind of prevailed upon him to  
provide those and eventually we did start  
getting those, but then there was a period  
where they began -- the department or the  
chief and Corporation Counsel began to argue  
that if we were holding the hearing after the  
sixty-day timeframe that the ordinance



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directed CRB to complete the process in, then he didn't have to respond to our findings. But they didn't -- yeah, he did not respond to the finding so we, you know, worked through that issue and then eventually got to the point where the chief was providing his findings to us again.

And then another incident happened and he stopped providing them to us again, so it was sort of periods where he was providing the letters to us and periods where he was not. So I'd have to see the file to recall whether the chief responded specifically to this one.

Q You had made sustained findings for each one of the officers and Alonzo Grant's particular case, yes or no?

MR. SICKINGER: Object to form.

A The panel did. I didn't.

Q Sorry, the panel did.

Do you recall the recommendations for discipline put forth by the CRB for each one of these officers?

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2 MR. SICKINGER: Object to  
3 form.

4 A Not off the top of my head, no, I  
5 don't recall.

6 Q Are you aware of whether or not  
7 the chief complied with these recommendations  
8 for the CRB?

9 MR. SICKINGER: Object to  
10 form.

11 A If he provided a letter or  
12 response letter, you know, we would have that  
13 in the letter. I don't believe any  
14 discipline was imposed in this case. Yeah,  
15 I'm pretty sure no discipline was imposed in  
16 this case by the chief.

17 Q Had you been contacted by the  
18 chief of police in regards to the  
19 recommendations made by the CRB in this case?

20 MR. SICKINGER: Object to  
21 form.

22 A I don't believe so, no.

23 Q Had you been contacted by the  
24 mayor?

25 MR. SICKINGER: Object to

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form.

A No.

Q Had anybody from the mayor's office contacted you in the spirit of cooperation in order to enact any recommendations by CRB?

MR. SICKINGER: Object to form.

A No.

Q What authority does the CRB have when recommendations are not met or followed through by either the chief or the mayor?

MR. SICKINGER: Object to form.

A CRB had no role at that point. Once we provide the finding and the recommendation to the chief and then the chief provides the written response back to us, that's the end of -- end of the role of the CRB in the case, other than providing the finding letters to all the involved parties. There was no mechanism or recourse, you know, if we wanted -- if the panel wanted to insist on discipline, there was nothing like that.

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It was the chief made the final decision.

Q So it's your understanding the chief makes the final decision or does the mayor make the final decision?

MR. SICKINGER: Object to form.

A I guess at the end of the day the chief works for the mayor, so, you know, decisions ultimately, you know, are made by the mayor. We'd have to check the charter to see -- the City charter to see if the mayor can supersede the chief in a disciplinary matter.

My operating assumption was always the chief made the final decision in disciplinary manners, but conceivably the mayor could fire the chief. You know, the chief serves at the pleasure of the mayor, so if the mayor didn't like something that the chief was doing, they could -- I don't know if they could direct them how to impose discipline. Again, that'd be something we'd have to check the charter on. But certainly, the chief serves at the pleasure of the

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mayor.

Q During your tenure, had you ever been made aware of anybody -- citizens expressing their feelings about whether -- how they felt about whether or not the Police Department or the mayor had followed through on any recommendation from the CRB?

MR. SICKINGER: Object to form.

A The question was whether the public --

Q Yes, whether any citizens or anybody --

MR. SICKINGER: Are you limiting the question to Mr. Grant or are you asking generally?

Q I could ask in this case, Mr. Grant's case, were you aware of any citizens in this -- Syracuse, had they made any of their feelings known in regards to whether or not the chief had enforced or followed through on any recommendations in the CRB or mayor?

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MR. SICKINGER: Object to  
form.

A I don't recall any citizens or  
public making any comments about the chief's  
decision in this case. I'm sure some people  
did, but I don't recall anything  
specifically.

Q So where are we with our  
exhibits? 41 or 42?

Let me hand you a document which  
is being marked as Plaintiff's Exhibit 41,  
and ask if you recognize this document. Take  
a moment to review that document, please.

(Syracuse Citizen Review  
Board case report: CRB #12-059  
was marked as Plaintiff's Exhibit  
41 for identification, as of this  
date.)

(Finding letter from chief  
was marked as Plaintiff's Exhibit  
42 for identification, as of this  
date.)

A I do generally remember this case  
and the document is an investigative report I

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2 wrote based on the case, and I do sort of  
3 vaguely remember this case. I remember the  
4 basic outline of the incident.

5 Q For the record, this is case  
6 report CRB number 12-059, correct?

7 A Correct.

8 Q Dated December 27, 2012?

9 A Correct.

10 Q And investigation by CRB  
11 administrator Joseph Lipari, correct?

12 A Yes.

13 Q I will hand you what has been  
14 marked Plaintiff's Exhibit 42 dated January  
15 17, 2013. Do you recognize that document?

16 A Yes. This is a finding letter to  
17 the chief. Oh, yeah, it's a finding letter  
18 for that -- the case for the investigative  
19 report that you just handed me, 12-059.

20 Q In regards to this case, were  
21 there sustained findings of misconduct?

22 A I believe so, yes.

23 Q At the very bottom of the -- not  
24 the very bottom but above your name, that's  
25 your name, Joseph Lipari, correct, at the

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bottom?

A Yes.

Q Two paragraphs up where it starts with, unfortunately.

A Yes.

Q Could you read that?

A Unfortunately, the CRB was not informed of this complaint until late October, many months after the notice of the incident was provided to OPS by Deputy Chief, redacted, and well after you had already made your disciplinary decision. In the future, the CRB should be notified immediately so that the CRB can conduct its own investigation and provide its recommendation to you in a more timely fashion.

Q Okay. Earlier in this testimony, you mentioned that there had was some struggle between the CRB and the chief of police over these timelines?

A Right.

Q Is this what you mean in regards to this statement?

MR. SICKINGER: Object to



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form.

A This one was a little different. Because it came directly from a deputy chief, it was essentially a complaint filed by a deputy chief who became aware of the incident and so they just -- the OPS, Office of Professional Standards department proceeded with their process and did not turn the file over us, I think until they completed the case. I think that's the way it happened. And so that, you know, that was contrary to the ordinance that this -- that instructs the Office of Professional Standards to provide the case, the entire case file to the CRB within thirty days.

So if I remember correctly -- I don't remember the exact timeframe, but after they had -- Office of Professional Standards had completed the case, they turned it over, the full packet to us with their investigation. And so at that point, it must have been past the thirty days which is why I would have raised it in this letter.

So yeah, the department had come

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to its decision and made its finding on this case without having sent it to us.

Q Do you recall what that decision was?

A I believe they did impose discipline against this officer for this incident, this one that was essentially filed by the deputy chief of police.

Q Do you recall who that deputy chief of police was?

A Thompson. Thompson. Rebecca Thompson.

Q I want to set those in the pile there and hand you this document.

(Syracuse Citizen Review

Board case report: CRB#13-020

and 13-021 was marked as

Plaintiff's Exhibit 43 for

identification, as of this date.)

Q It's marked as Plaintiff's Exhibit 43. Can you take a moment to refresh your recollection?

MR. SICKINGER: Off the record.

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(Whereupon, a discussion was  
held off the record.)

MR. RYDER: Back on the  
record.

Q Okay, Joe, I'm going to actually  
back up a little bit. I got ahead of myself.  
I'm going to ask you to take a look back at  
Exhibit 41, if you could.

A 41?

Q Yes.

You mentioned that you recognize  
that document. You had been familiar with  
the facts of that case?

A Yes.

Q All right. Can you just tell me  
briefly what that case entailed?

A Without having read it  
completely, just having skimmed it and my  
memory being jogged, it was an incident with  
a teenager at a group home called Elmhurst.  
I forget exactly how the incident started,  
but at some point an officer was called and  
they had the young man in a room and there  
was an interaction between the young man and

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the officer where the officer's words to the young man were alleged to be threatening, and then this officer at some point grabbed the young man around the neck. And then I remember there was a description of the young man's face turning red and then she let -- the male officer let him go. And I think they exchanged some more words towards each other. That's the basics of the case.

Q And to your recollection, there were sustained findings from the CRB?

MR. SICKINGER: Object to form.

A Yeah. So I think this is the one where we received along with the complaint and the report and everything from OPS, the chief's finding and his decision on the case, and so we were -- that's where we felt like, well, we should have received this before you made this decision and been given an opportunity to conduct our own investigation and make a recommendation and then you make your decision as the ordinance lays out.

Q Do you recall what the chief's

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finding was?

MR. SICKINGER: Object to

form.

A I forget what they called it, if it was conduct unbecoming or something, but I remember they did impose discipline against this officer. I remember it because it -- I didn't -- we didn't see a lot of other discipline being imposed in such cases, excessive force cases, so that one stuck in my mind as one that was -- discipline was actually imposed.

And the fact it was unusual to have a deputy chief filing the complaint, so I figured that played into it.

Q So you mentioned that the finding was, to your recollection to be fair, was conduct unbecoming; is that what you said?

MR. SICKINGER: Object to

form.

A I'm not positive about that, but I don't remember it being labeled as excessive force but it could have been. For some reason, conduct unbecoming is sticking

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1 out in my mind so I think that may be what  
2 they called it, but without having it  
3 right --  
4

5 Q Do you recall if there was a  
6 finding of excessive force?

7 A From the department?

8 Q Yes.

9 MR. SICKINGER: Object to  
10 form.

11 A If I remember correctly, it  
12 was -- it was something other than excessive  
13 force. It was conduct -- yeah, and now that  
14 I look at what -- how we labeled it, the  
15 allegations, we included conduct unbecoming.  
16 So that's -- that reminds me, yeah. That was  
17 -- that's what the department had decided,  
18 conduct unbecoming.

19 Q We will go ahead and skip forward  
20 to the last exhibit I gave you, which should  
21 be Plaintiff's Exhibit 43 if I'm keeping them  
22 in order here; is that correct?

23 A I have 43 here, correct.

24 Q Are you familiar with that  
25 document?

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A It's another one of my investigative reports. I don't remember who these individuals were. We had a number of cases that involved officers offering to not charge someone with something, with a crime, in exchange for information on either the drug trade or guns -- getting illegal guns to them.

So as I skimmed it, the situation is familiar, but I don't remember exactly which case, which individuals these are. We had several of these.

Q Okay. So for the record, we're discussing CRB case report 13-020 and 13-021, dated April 1, 2013. Investigated by CRB administrator Joseph Lipari, correct?

A Correct.

Q So you mentioned that something that stuck out to you after skimming this was that this was an investigation over officers offering, how did you put it, reduction in -- reduction in consequence or something?

A Yes, so we had sort of --

MR. SICKINGER: Object to

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form.

A We had sort of wrestled with how to -- what to call these cases, so I think at one point we were referring to them, I think we eventually settled on nonfeasance in exchange for incriminating information. Nonfeasance meaning not doing something you were supposed to do, as in arrest the person or give them a citation. Other things we called it I think were inappropriate offers in exchange for information, always along those lines, sort of capturing of the officers not doing something that -- that they should have done in exchange for information.

Q Okay. You mentioned that the CRB was empowered to make a wide range of recommendations to the chief, correct?

A Correct.

Q These would include everything from maybe a verbal warning to termination, somewhere in between?

A In terms --

MR. SICKINGER: Object form.



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A In terms of discipline, yes, but we also had -- could make recommendations in terms of policy and training.

Q And had you throughout the tenure of your career in Syracuse as the CRB administrator, had you made recommendations of policy and what did you say, education?

A Training, yes. In our annual report every year we would make policy and training recommendation.

Q Would you make the particular policy and training recommendations in your documentation that you sent over to the chief?

A We could. We didn't have to make a policy and training recommendation, but we certainly could, and in an individual case, if we thought -- if the panel thought that a case raised a particular policy or training issue, they could -- they didn't have to wait until the annual report to make that recommendation. They could put that in the findings to go to the chief.

Q And do you recall within your

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tenure, had you done that?

A We did that several times, yes.

Q Do you recall within your tenure whether or not the chief of police had followed through on that particular recommendation?

MR. SICKINGER: Object to form.

A For the policy and training recommendations, he was not required under the ordinance to respond to us in any way when we made a policy or training recommendation, so we wouldn't necessarily be told if he had. Some of the issues that we raised we saw give -- there would be a point where it became less of a problem and so we would -- hoping that maybe it was raised in -- in service training or in roll call to correct some of this, but we never had any kind of confirmation or official, you know, notice that any of our recommendations on policy or training were ever adopted or instituted.

Q I'm going to hand you what is

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marked as document Plaintiff's Exhibit Number 44.

(Finding letter for case #13-020 and #13-021 was marked as Plaintiff's Exhibit 44 for identification, as of this date.)

Q Take a look at that for a moment.

A This is the finding letter for the same case we were just looking at, 13-020 and 13-021.

Q And then the second page of that document, is that your name as administrator?

A Yes.

Q In this case, did the CRB conclude any or sustain any findings?

A Yeah, according to this finding letter, the panel did sustain demeanor and excessive force and also improper offer to remove charges.

Q Underneath the CRB finding title on this document, there's a title CRB recommendation. Do you see that?

A Yes.

Q Could you read those

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recommendations, please?

A For demeanor and excessive force written reprimand, improper offer to remove charges, command level review of SPD practice of discretionary enforcement in exchange for information on guns or drugs.

Q To your knowledge, were any of these recommendations followed through with by either the chief of police or the mayor of Syracuse?

MR. SICKINGER: Object to form.

A Again, we received no notification, formal or informal that that recommendation was acted upon; however, I would say that after we made that recommendation in an annual report, there was some media coverage of it, we would still get complainants say that -- tell us that an officer tried to get information from me and then we would ask him, did they refer to the DA's office at all, but that's what was at stake here was our recommendation was ultimately that, of course you want to go up

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the food chain, try to ask lower level criminals about higher level stuff, but no one wants to get in the way of that.

But there is a process outline with the DA's office on how to do that. You go through the DA's office, the DA is ultimately who decides who gets charged and doesn't get charged, not the officers. And so our recommendation was, you know, to remind officers that only the DA's office can make that decision. What officers can do is say, look, I can try to help you out if you give me this information and we'll talk to the DA's office, try to, you know, see if the DA will lower the charges or drop the charges, but it's up to the DA and you have to make it clear to the individuals that the officer is not the one making that decision and will drop the charges at the DA's office. It has to go through these formal official channels.

So after we made our recommendation, we started asking -- we continued asking complainants when they would

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bring up this issue, yeah, they were trying to get information. They were trying to get me to give a gun, or we would ask them, did they mention anything about the DA's office and they would stop and they would think, yeah, they did actually. They said we needed to -- we would have to get this cleared by DA's. So we felt like we never got into our formal complaints about that happening without the DA being mentioned so we felt like our -- us -- the CRB raising it and making recommendation -- policy recommendation and training recommendation on this one may have actually helped tamp down the occurrence of that happening out on the street.

Q So as administrator, you're fully aware of the functions of the CRB; is that fair to say?

A Yes.

Q So, would it be one of the functions of the CRB to identify and recognize patterns, in particular, allegations against the police within the

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City of Syracuse?

MR. SICKINGER: Object to

form.

A So I think the way it's worded in the ordinance is policies and training. I don't think they could use the word, pattern and practice, in the ordinance per se. But when you're looking at policies and training, you're -- by nature you're often looking at the way things are done, whether informal or formally, so essentially be a pattern or practice. So in the field of civilian oversight more broadly that's often what we're asked to do is look at pattern practices, so I would say that during my time at the CRB, yeah, I considered it within my purview to look for patterns and practices and to try to address them if there was a, you know, if there was a solution to them.

Q Could you give me an example of maybe one of the patterns and practices that you would have identified while you were CRB administrator in Syracuse?

MR. SICKINGER: Object to

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form.

A So I think this is a good example, this practice of telling arrestees, potential arrestees that, you know, we'll make this -- we won't arrest you on this if you give us information on A, B, or C.

We also saw a pattern of officers failing to adhere to the, what is called the felony stop policy or high-risk traffic stop policy. We had a number of cases where officers would run up to a car with guns drawn if they thought there was a gun in the car or a felon in the car or something. That's a very dangerous thing to do.

So out of office -- concerns for officer safety we recommended that -- they had a good policy on felony stops on these high-risk traffic stops. We weren't seeing it being followed in our cases that we were investigating, so we did make a policy and training recommendation on that one -- training recommendation on that one and we saw that essentially taper off as well.

In terms of use of force, you



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1 know, I think from the start with those high  
2 excessive force complaint numbers we were  
3 always concerned with the City's policy and  
4 its training on use of force. And so we did  
5 over three years make multiple  
6 recommendations to the department that it  
7 update its use of force policy and to train  
8 officers on that -- on this new policy.  
9

10 So yeah, I mean, I would say, you  
11 know, the issue of use of force became a deep  
12 concern for us. I will leave it at that,  
13 yeah.

14 Q Were policy recommendations made  
15 to the City of Syracuse in regards to use of  
16 force then?

17 MR. SICKINGER: Object to  
18 form.

19 A Yes. In 2013. In our 2013  
20 annual report, we recommended that the City  
21 conduct a review of its use of force policy  
22 to ensure that it is in line with what the  
23 Department of Justice recommends in their  
24 consent decrees that they reach with the  
25 cities around the country.

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As far as I was aware, that was never acted upon by the department. So in our 2014 annual report, we made another recommendation that the City again review its use of force policy, and this time we said to make it consistent with DOJ consent decrees and recommendations, and the recommendations that DOJ would have in these consent decrees, that they add these particular components to their use of force policy.

I won't go through all of them but we had certain -- we had several things that we wanted to see added to the policy. Again, we didn't receive any notification that that was being adopted or changed, and the policy was not changed. So in our 2015 annual report, the board members directed me to develop a full comprehensive use of force policy for the purposes of the CRB but then also to recommend to the City that they adopt this policy or something very similar to it. So we included that in our 2015 annual report, this recommended use of force policy.

Q And what was the outcome of that,

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to your knowledge?

MR. SICKINGER: Object to

form.

A As far as I know, no action has been taken on that by the department or the City either.

Q In previous answers you referenced some of the aspects of your recommendations with the new use of force policy. You said you didn't want to get into that, seemed like maybe that was voluminous, but could you go into some of those?

MR. SICKINGER: Object to

form.

Again, Mr. Ryder, you're far outside the scope of the order. If you want to continue this, I'm going to call the magistrate now. I'm trying to avoid that.

MR. RYDER: Let's go off.

MR. SICKINGER: No. We're on the record.

MR. RYDER: I just want to see what his concerns are

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exactly. I want to make sure  
that maybe I'm not --

MR. SICKINGER: My concern  
is that the order specifically  
states what you've been  
questioning him about. You're  
getting into policies, you're  
getting into his understanding of  
patterns and practices. That's  
far outside of the scope of the  
Court's June 28th order.

I would like to see if we  
can conclude this deposition by  
sticking to the terms and scope  
of the order without getting into  
these issues.

MR. RYDER: Certainly I  
don't want to get into anything  
purposefully. Okay? So maybe  
sometimes I am kind of leading  
into something but I'm not really  
aware.

MR. SICKINGER: I understand  
that, Mr. Ryder. I'm just trying

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to make sure that we both get  
this done today and --

MR. RYDER: And I am  
certainly not just doing anything  
to get under your skin. I'm  
following through with some of  
the questions I have.

A I mean, the easy answer to the  
use of force of policy question is just to  
look at the annual report. It's all in the  
report.

Q All right. I'm going to hand you  
what we've marked as Plaintiff's Exhibit 45.

(Case report: CRB#13-100  
was marked as Plaintiff's Exhibit  
45 for identification, as of this  
date.)

Q Do you recognize that document?

A It's another investigative report  
that I concluded.

Q This would be?

A Just 13-100.

Q Dated December 3, 2013?

A Correct.

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Q Investigated by CRB administrator Joseph Lipari?

A Correct. Okay, yeah. I remember this case.

Q Could you tell me briefly what that document embodies?

A This is the investigative report for an excessive force allegation, an individual that was wanted on petty larceny and trespassing counts. An officer spotted him on the street, there was some dispute over the complainant's actions at that point. The complainant said he just took off running when the officer said we have been looking for you. The officer said I think the complainant threw down a bottle of beer or a glass bottle and it shattered and then he took off running. Either way, the complainant took off running.

The officer caught him and fairly significant use of force on the individual as the officer, you know, detailed in his report in terms of striking the individual in the face, I think multiple times. And the

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complainant certainly complained that he was struck in the face multiple times. I don't remember if he alleged that he was kicked or not. Yeah, he does. It does allege that he told an officer that he couldn't breathe and that an officer stated, I hope you die, kicked him in the face.

And then the complainant also alleged that he asked the officer's name and the officer said, get it off the report and refused to give his name.

And so there was a sergeant that then responded to the incident after the use of force had ceased, and the complainant, I believe recounted that he told the sergeant or he asked the sergeant why he -- why the officer beat me up this way or something to that effect. And then the complainant alleges that the sergeant responded, you should have run faster, meaning he shouldn't have gotten caught.

So that's the gist of the case.

Q I'm going to hand you what has been marked as Exhibit 46.

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(Finding letter for CRB

#13-100 was marked as Plaintiff's  
Exhibit 46 for identification, as  
of this date.)

Q Briefly review that document.

A So this is the finding letter for  
that case we were just discussing, 13-100.

Q Were there disciplinary  
recommendations made?

A Yes. So the panel sustained  
excessive force against both officers who  
were involved in that incident. One received  
a fifteen-day -- one was the panel  
recommended a fifteen-day suspension without  
pay for one officer and a five-day suspension  
without pay for the other officer.

Q Do you recall whether or not  
those recommendations were filed through  
either the chief of police or the mayor?

MR. SICKINGER: Object to  
form.

A I don't believe they were.

Q On the second page, first  
paragraph in bold I'm going to have you read



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that first paragraphs for me, please.

A This is a letter from me assigned to -- written to the chief of police.

The CRB appreciates the written responses that we have now begun to receive from you. Your responses assist the CRB in understanding the reasoning behind your disciplinary decisions. We look forward to continuing to receive these responses because they will likely contribute to further convergence of the investigative findings and disciplinary decisions of our respective agencies.

Q Now, my experience after looking through all these documents, I hadn't seen that language before.

Could you explain the reasoning behind that language?

A Yes. So that tells you this was a point where, remember earlier I was telling you that there was a period where the chief wouldn't provide these written letters to us, his written responses once we provided the finding letter. So this was the beginning of

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the period when he did start responding, providing these responses to us. So that whatever the case that we handled right before this one, he must have responded in writing to that one and must have been new for us, so I -- in this next letter I indicated that we appreciated getting that now and that we look forward to continuing getting those in the future.

Q Do you recall if you had received your response to this letter?

A Do I recall what?

Q If you had received a response to this recommendation.

A I am not positive, but all of those letters are kept in the office. You know, I had a file that every response letter we got from the chief went in there, so those are saved. I don't remember the guy's name. I don't remember if I we got a response letter from the chief on this one.

Q But you do remember whether or not the recommendations were followed through with?

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MR. SICKINGER: Object to

form.

A No. We would have had to have gotten the response letter from the chief to know for sure whether any discipline was imposed or not. So I would -- I would defer to whatever the written record says on that. I mean, the -- the way it works in my mind is a handful of cases where discipline was imposed, I kind of remember those and then the others, you know, if it doesn't stick out in my mind it's just one that was where discipline -- where the chief imposed discipline. Usually falls in the other category of not having imposed discipline.

Usually if it didn't fall into the category of having discipline imposed by the chief, then it meant it was in the other category of no discipline being imposed. But again, I would defer to the written record.

Q Was it common to have discipline imposed by the chief or by the mayor or would be that uncommon?

MR. SICKINGER: Object to

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form.

A For excessive force?

Q For any of these.

A For any? It was uncommon --

MR. SICKINGER: Again, Mr.

Ryder, if you're going to ask these questions, I tried to contact the magistrate earlier but she was on the bench. I will contact her again in her chambers because you're getting -- you're way outside of the parameters of the June 28th order. I would like to limit it to that and see if we could avoid contacting her, but if you're going to continue down the road, I'm going to have to --

MR. RYDER: He said it. I

just followed through with what the witness just said. I didn't ask him that originally. I followed through with his statement.

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MR. SICKINGER: The order  
does delineate.

MR. RYDER: I can't stop him  
from representing --

MR. SICKINGER: That's fine,  
but you don't have to ask the  
follow-up question.

MR. BONNER: Off the record  
one second.

(Whereupon, a discussion was  
held off the record.)

MR. BONNER: Back on the  
record.

Q Okay. Gentlemen, I hand you  
Exhibit 47. Take a moment to look at that.

(Case number 13-111 dated  
January 30, 2014 was marked as  
Plaintiff's Exhibit 47 for  
identification, as of this date.)

A I remember this case. Case  
number 13-111 dated January 30, 2014.

Q Give me a brief description of  
your recollection here after reviewing this  
document.

J. Lipari

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1                   A        So this started off as a vehicle  
2                   and traffic stop. The basic gist of it was  
3                   the officer pulled the man over, I forget  
4                   what the initial violation was, but he  
5                   appeared nervous, I think they said his eyes  
6                   were red. At some point they instructed him  
7                   to get out of the vehicle or turn the  
8                   ignition off and get out of the vehicle and  
9                   then the accounts diverge at that point.  
10                  There was a little bit of confusion over  
11                  exactly what the next steps were, but I think  
12                  the complainant acknowledged that he was  
13                  scared according to his account and he  
14                  decided not to get out of the vehicle. And  
15                  he went -- I don't remember the details  
16                  right. He went to start the car again or he  
17                  never turned it off. Either way, he went to  
18                  move the vehicle.

19                         The officer tased him through the  
20                         vehicle while he was still in the vehicle,  
21                         struck him several times in the face, and I  
22                         think this was the one where the officer had  
23                         a small flashlight in his hand when he struck  
24                         him through the window -- through the window  
25

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1 that was down, striking him in the face. But  
2 he was buckled in and the strikes and the  
3 taser didn't have the desired effect and the  
4 guy ended up taking off in the vehicle. I  
5 think during the pursuit the officers  
6 reported seeing something being thrown out of  
7 the window.  
8

9 He did eventually stop around  
10 Salt Springs Road, bailed from the vehicle  
11 and I think the officers caught him pretty  
12 quickly, took him down, and then there was  
13 some more strikes to his face, to his eyes.

14 I remember this, when the  
15 complainant was giving me the account, he  
16 remembered something grinding in his mouth.  
17 He was -- he may have been intoxicated, he  
18 had been struck numerous times and he wasn't  
19 sure what it was and he just remembered like  
20 this gravelly feeling in his mouth. And I  
21 remember questioning him, trying to figure  
22 out what that was. I thought maybe his mouth  
23 was on the concrete or somehow concrete had  
24 gotten in his mouth or maybe something got  
25 stuck in his mouth. But I think what we

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1  
2       figured out eventually is that it was some of  
3       his teeth that were broken and that's what he  
4       was feeling, this gravelly sensation in his  
5       mouth.

6                       His -- I remember his eye was  
7       very badly injured as well. There was --  
8       just consulting the report, there was the  
9       choroid coat -- and I am reading from the  
10      report here, which is like a layer around the  
11      eye. I am no doctor -- you know, eye doctor,  
12      so, you know, referencing this using  
13      reference material to understand this, but  
14      there was a layer around the eye that was  
15      disturbed or hemorrhaged in some way. So it  
16      was a, you know, fairly severe injury to the  
17      eye. So I think that's the gist of the case.

18               Q       I'm going to hand you what has  
19      been marked Exhibit 48. Just take a moment  
20      to look at that. That one's a little longer  
21      than some of the other ones.

22                       (Finding letter for 13-111  
23                       was marked as Plaintiff's Exhibit  
24                       48 for identification, as of this  
25                       date.)



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A Yeah, this is the finding letter for 13-111, same case we were just talking about.

Q Were there sustained findings in this particular case?

A There were -- ended up being one sustained finding from the CRB panel on this case, yes. One excessive force finding.

Q And was there a recommendation for discipline?

A This one the panel recommended a written reprimand to go in one officer's file, personnel file for six months.

Q And were those followed through with, if you know?

A I don't believe so, but I'd have to, again, check the written record to be sure.

Q Do you recall receiving a decision and a response and a reason from the chief within the thirty days?

MR. SICKINGER: Object to form.

A You know, I do recall now there

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was an unusual response we got in this case. The chief actually, before responding in writing to our decision, asked for the medical records for this case and I remember being kind of excited that, oh, he wants to see more of the evidence that we acquired. Because I think up to that point they had not been acquiring medical records for these cases. So we started doing that. So when he asked for the medical records, I'm like, oh, good, he's taking a closer look at this one. I think he wanted to know more about that eye injury. So I provided that to him and then I think within a few days or a week or so, we got the written response from him. If I remember correctly, no discipline was imposed.

Q I'm going to ask you read again from your document. I'm sorry I have to do this to you. As you go to about halfway down the document you'll see a paragraph that's -- a short paragraph that starts, to facilitate.

Do you recognize that?

A I see it, yeah.

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2 Q Could you read that, please, for  
3 the record?

4 A You want just the paragraph  
5 that's in bold or the whole --

6 Q I want --

7 A -- the preceding paragraph too?

8 Q I want the paragraph that says,  
9 to facilitate a better understanding, and  
10 then I would like the bold paragraph, and  
11 then I would like the next paragraph  
12 underneath it.

13 A To facilitate a better  
14 understanding of the department's policy and  
15 training in regards to strikes to the head, I  
16 would ask that we begin to reconvene the use  
17 of force training that the SPD's training  
18 division previously provided for CRB members.  
19 As required by local law 1 of 2012, the  
20 police -- and this is the bolded quoted  
21 section -- the police liaison committee will  
22 act as a resource to the board on matters of  
23 information regarding Syracuse Police  
24 Department policies, procedures and training  
25 and will assist the CRB administrator as

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requested in developing an initial orientation for board members and ongoing training. It's the end of the quoted section. If we can get the liaison on committee active and the training for CRB members back on track, the SPD training division could likely address the board members relating to strikes to the head. Reactivating the training for CRB members may also result in an increased rate of agreement and findings between our respective office.

Q Okay. Thank you.

So the reason I had you read this was because this is another recommendation from you or a writing from you that I don't see in -- usually in some of these recommendations you sent the chief. Could you explain to me why this was put in this document?

MR. SICKINGER: Object to form.

A Yeah, so I think at this point we had -- I had first came in 2012. I was -- the first thing we did was ask to set up this

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police liaison committee that's required by the ordinance.

Q And that's the ordinance that you had just read; that's quoted material from that --

A Correct.

And so there was some delay in getting that set up. We eventually did get it set up and we met three or four times, had real good meetings with the officers who were appointed to this liaison committee. It was an officer in charge of the training and an officer in charge of OPS and the police union rep. So we had some pretty, what I call pretty productive meetings that went on longer than we had ever planned for those meetings to go on. Both sides were actively engaged. And then at a certain point, the Police Department stopped having those liaison meetings with us. And so this must have been after that point where I am going to the chief saying, let's get these liaison committee meetings back on track because they are important. We need to hear from you guys

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how you train on head strikes. We would like to convey our sentiments on head strikes to you, to the department. We would like to, you know, keep in place some training that the department could do for our board members, whether it be excessive use of force training, other constitutional aspects of law enforcement.

So we were -- I was calling on the chief to provide that training to the board again.

Q Was there a response to your request?

MR. SICKINGER: Object to form.

A I don't think we got a specific response to this, to the request in this letter to get the liaison committee back on track. I think there was some discussions happening, you know, back channel -- not back channel, you know, behind the scenes. I know at one point we had a City councilor, common councilor kind of prevail on the chief to get these liaison meetings started; that was the

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early stage.

So, no, in the rest of my time there through 2015, we never had another liaison meeting even though we requested it multiple times. Yeah. That's where we were at whenever I left. And I know the board members, one board member in particular kept raising at each board meeting, let's get the liaison committee back on track; we really want that. So that's something that the board members were very keen on.

Q We're almost done with these. I'll hand you a document marked as Exhibit 49.

(Investigative report for case 14-018 was marked as Plaintiff's Exhibit 49 for identification, as of this date.)

Q If you could review that for me.

MR. SICKINGER: Off the record.

(Whereupon, a discussion was held off the record.)

MR. SICKINGER: Back on

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record.

Q So I had handed you Exhibit 49 and you reviewed that. Do you recognize that document, Joe?

A Yes.

Q Tell us a little bit about that briefly.

A So it's another investigative report that I completed, case 14-018. This was a case that I think there was a -- an ongoing narcotics investigation of the individual. He got into a vehicle, they stopped the vehicle, and the complainant alleges that he did have some kind of dope in his vehicle, crack I believe, and then I think he had it in a brown paper bag, he alleged and, I mean, the gist of it is he alleged that the officers just kind of reached in the vehicle, started punching him in, I believe in the face, sort of upper body area.

At some point the bag of dope broke open and went -- got all over the car and the curb and everything out of the



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1 vehicle.

2  
3 What are the other highlights  
4 here? I think after he was -- after force  
5 was used on him, he described laying on the  
6 ground, having blood coming from his mouth  
7 and I think he described sort of spitting  
8 some blood out and the officer telling him,  
9 he quotes, if you spit on my foot, I'll kick  
10 you in the face. They also reported that he  
11 was, in his words, snatched out of the  
12 vehicle.

13 And then the other reason that  
14 this one sticks out in my mind is the  
15 individual had sort of a bowel movement  
16 during or after the use of force and so they  
17 had to bring him to the house where they  
18 searched him and they searched the house and  
19 allowed him to clean up as they searched  
20 him -- before they searched him.

21 The other aspect of this case was  
22 the wife or partner, significant other, of  
23 this man was an individual woman who had  
24 filed multiple complaints with the CRB  
25 involving her former partner, involving her

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1 kids and other complaints. Her former  
2 partner had died in police custody in 2000 --  
3 in the early 2000s, so she, you know, not  
4 surprisingly had, you know, had multiple  
5 complaints against the department for that  
6 case, but for other incidents that involved  
7 her kids.  
8

9 And so she -- the individual  
10 filed this complaint from the justice center,  
11 from jail, but then she came in, his partner  
12 at some point in the process, and told me  
13 that the officers had told the complainant,  
14 the man, referencing her, tell that bitch  
15 this: We're going to do you like we did her  
16 other baby daddy. Tell her this is what we  
17 did.

18 So that allegation came from her,  
19 and so she was essentially presenting this as  
20 similar to what had been done to her previous  
21 partner, and that -- that this was  
22 essentially part of the -- I'm sort of  
23 paraphrasing her perspective here. That this  
24 was part of sort of retribution against her  
25 for filing complaints against officers and

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they targeted him to get at her is the way she thought of it.

Q Let me hand you what has been marked Exhibit 50. Do you recognize that document?

I'm going to back up on the record and just say that the document we had previously marked as 49 was CRB report 14-018, April 30, 2014.

(Finding letter for case 14-018 was marked as Plaintiff's Exhibit 50 for identification, as of this date.)

A So Exhibit 50 that you just handed me is case 14-018, the same case, the finding letter for that case.

Q You're familiar with these documents; you generated documents yourself when you were the administrator?

A Correct.

Q So looking at them you can kind of look through them pretty quick?

A Yeah. Yeah, what's going on here.

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Q All right. So there were findings?

A Yes. The panel sustained excessive force against two officers, found insufficient evidence, meaning not sustained, poor demeanor against two officers, and then sustained untruthfulness against a sergeant.

Q And there were disciplinary recommendations?

A Panel recommended a ten-day suspension without pay for the excessive force against two officers, and a ten-day suspension without pay for untruthfulness by the sergeant.

Q Okay. And do you know if those recommendations were followed through with, either by the police chief or by the mayor?

MR. SICKINGER: Object to form.

A Pretty sure that I remember receiving a letter on this one that -- that no discipline was imposed on this one.

Q On the second page, I'm going to take a look at a paragraph here. It's the

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third paragraph down above the bold, request for.

A Uh-huh.

Q Okay. So you see where I'm looking at the paragraph that starts -- it says, lastly, comma?

A Yes.

Q It's a lengthy paragraph, I'm sorry, but I'd like you to read that paragraph.

A Lastly, the panel requested that I take this opportunity to encourage your office to adopt a policy that requires officers to intervene or intercede if they observe another officer engaged in misconduct or use of force that is clearly beyond that which is objectively reasonable under the circumstances. I conducted a preliminary review of the SPD rules and regulations manual and could find no such policy. If the department does have a policy on this issue, please provide the CRB with a copy or indicate where in the rules and regulations the policy can be found. I have enclosed a

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few examples from around the country that have such policies. In addition, I have enclosed a brief article on the topic by attorney and police officer, redacted, director of the Legal and Liability Risk Management Institute. The CRB would like to know your view on the possible adoption of such a policy for the SPD.

Q In your recollection, did anybody from the Syracuse Police Department or the mayor's office respond to you in regards to this request?

MR. SICKINGER: Object to form.

A No, I don't recall ever getting any kind of response to it. In the use of force policy recommendation that we made in the annual report, we also pointed this out again, that they needed what's called a duty to intervene policy, meaning a clause in the policy that says, if you as an officer see another officer violating policy by using force that is not reasonable, then you should intervene and stop it and report it. And

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it's, you know, it's a very tricky thing to intervene in a use of force situation, so there has to be training on how to do it properly and safely.

So that's what that was about, the CRB trying to encourage the City to adopt the duty to intervene policy.

Q And let me -- I'm just going to ask you about that really quickly. I'm not going to try to solicit any objections. I'm unfamiliar with that terminology. Is it something that you had become aware of at the time when you were tenured there at Syracuse, or something that you brought previously or what is the -- how did you find this information? What is the basis for that knowledge?

MR. SICKINGER: Object to form.

A I think the first time it came up, I don't recall if it was for this case or a previous one, but one of our panel members asked me a question, is there -- I think he asked the question or made a suggestion that

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1 we look at this question of obligations to  
2 intervene. And we -- so I did some research  
3 on it and we found this duty to intervene  
4 component in many departments, policies  
5 around the country, and increasingly, the  
6 Department of Justice's consent decrees are  
7 including them. And they say essentially  
8 that officers have a duty to intervene and  
9 stop a constitutional violation if they  
10 observe it and to report it to, you know, up  
11 the chain of command if they witness it.  
12

13 MR. BONNER: It's a  
14 requirement under 42 U.S.C.  
15 1986.

16 MR. SICKINGER: Was that a  
17 question you want a response to?

18 MR. BONNER: I was just  
19 making a comment on the record.

20 Q So your recollection was that the  
21 chief did respond within the thirty-day time  
22 period, correct?

23 A I can't say with -- if it was  
24 within a thirty-day timeframe, but I do  
25 remember that we got a letter for this.



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Q And it's your recollection that none of the recommendations on behalf of the board were followed through?

MR. SICKINGER: Object to form.

A Correct.

Q Okay. I'm going to hand you what has been previously marked as Exhibit 18. See if you recognize that document.

A Yes, this is, well, one of the pages -- eight pages of our annual report from 2012.

Q And on that eight-page, what -- what would you title that single page that you recall?

A It's headed as intake and disposition of cases.

Q So is this kind of like a statistical breakdown?

A Exactly. So the ordinance requires the CRB to report certain numbers publicly in its annual and quarterly reports and so most of what is on this page is required by the ordinance that we report

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publicly or the CRB reported publicly.

Q So on this page, you're going to have documentation of the number of total complaints received by the CRB, correct?

A Correct. For that quarter or for that year depending on if -- this is the annual report, so for that year --

Q And what year?

A -- although I would point out this was my first year, 2012 was my first year, I started there in May of 2012, so it's -- the numbers here are essentially about a half year's worth of data so that's why the numbers go up in '13, '14. We also had a full year. So even though it says on front, January to December, we weren't really active until May, June 2012.

Q So you had the total number of complaints for your time period throughout that year of 2012, you have the -- a breakdown as to what those complaints consisted of, correct?

A Correct.

Q What were the percentages of the

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breakdown on the different types of complaints?

A I don't have the percentages but I can give you the raw numbers. So the way the ordinance asked us to -- to break these out was active misconduct, which is essentially anything except failure to act. Failure to act is the next category, active misconduct.

We have active misconduct, fifty-seven complaints received; passive misconduct, again, failure to act, twelve complaints received; damage to property, two; denial or violation of constitutional rights, two; and lack of truthfulness in a police report, two.

Q Then you have the number of sustained complaints, correct?

A Correct. The number of cases where a CRB panel recommended this -- disciplinary sanctions be imposed by the chief of police, nine is what was recommended for that year.

Q And then you have the total

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number of cases where the chief followed  
through on those recommendations?

A Yes.

Q What's that number?

A We have one for that first year.  
I'll say at that point, we were counting any  
discipline imposed by the department as a  
grievance, whether it was the same discipline  
our panel recommended or different discipline  
if they impose discipline and carried out  
discipline, we consider that an agreement at  
that point. That we considered that the  
department impose discipline. We weren't  
parsing whether it was exactly what we  
recommended or not, we just counted it if  
they did impose discipline, just to clarify.

Q I'm going to hand you -- first,  
do you have any more comments on that  
document that I handed you even though I know  
it's limited, just -- it's just for this  
particular page?

MR. SICKINGER: Object to  
form.

A No.

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Q I'm going to hand you what's been marked as Exhibit 19.

A So, yeah.

Q Do you recognize that document?

A Yes, this is the annual report for 2013.

Q As part of that document we attached that same page or relevant page to the last exhibit which would show, basically, I guess I would kind of characterize them as statistics or summary of operations?

A Yes.

Q Go through those numbers with me really quick just like we did on the last one.

A Just the second page?

Q Yes. I guess it would be -- yes, that page.

A Total complaints received during 2013, 111. Categories of allegations: Active misconduct, ninety-six; passive misconduct, twenty-two; damage or lost property, two; denial or violation of constitutional rights, one; lack of

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2 truthfulness on a police report or falsifying  
3 a report, three.

4 Q Is there a -- is there a  
5 documentation of the findings that is -- are  
6 those your findings, recommendation for  
7 discipline, those numbers?

8 A So out of the ninety-six -- well,  
9 out of the 111 cases that we received that  
10 quarter, the panel recommended disciplinary  
11 action in twenty-six of those.

12 Q Do you have the documentation of  
13 what number of recommendations were followed  
14 through by either the chief or the mayor?

15 A We put --

16 MR. SICKINGER: Object to  
17 form.

18 A We put TBA there, to be  
19 announced, because what that tells me is that  
20 that was a period where we hadn't received  
21 all of the written responses from the chief,  
22 so we couldn't calculate that number.

23 Q Do you have a recollection now at  
24 this point in time of how the -- the end  
25 results on that?

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MR. SICKINGER: Object to  
form.

A Not the exact number, but it  
would have been just, you know, a handful,  
you know, less than five, if that much. But  
I can't recall the exact number for that  
year.

Q Let's take a look at the second  
page. I guess there was a -- the first page  
indicated -- yes, let's take a look at that.  
What is that page? Tell me about that.

A So, this is the -- these are the  
categories of complaints as we track them, so  
we have excessive force, demeanor, failure to  
act, harassment, racial bias, false arrest,  
et cetera, et cetera. So we break it down by  
that quarter. So how many of each of those  
categories, complaints we received that  
quarter, October 1st through December 31st of  
2013, and then we break it down for the whole  
year, for all of 2013 with the same  
categories.

Q Could you give me those -- those  
numbers, please?

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A For the quarter?

Q For the quarter, then for the year.

A Okay, so excessive force, eight; demeanor, six; failure to act, three; harassment, zero; racial bias, zero; false arrest, one; improper search and seizure, three; theft/larceny, one; taser discharge, two; untruthfulness, zero; gender bias, zero; evidence tampering, zero; improper offer to eliminate charges in exchange for incriminating information, zero; constitutional violation, zero; and violation of SPD high-risk traffic stop policies, zero.

So for the year, excessive force, forty-nine, which was forty-four percent of the cases received that year. Demeanor, twenty-four, which was twenty-one point six percent of the cases received that year.

Failure to act, twenty, which was eighteen percent of the cases received that year.

Harassment, five, which is four point five percent. Racial bias, five; four point five percent again. False arrest, nine, which is



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eight percent. Improper search and seizure, thirteen, which is eleven point seven percent. Theft and larceny, six, which is five point four percent. Taser discharge, five, which is four point five percent. Untruthfulness in a police report, three, which is two point seven percent. Gender bias, zero. Evidence tampering, three, which is two point seven percent. Improper offer to eliminate charges, four, which is three point six percent. Constitutional violation, one, which is point nine percent. And violation of SPD high-risk traffic stop policy, four, which is three point six percent.

Q So in your role as administrator for the CRB during that period, 2012 to beginning of 2016, correct, what is your understanding -- what is the purpose of compiling these statistics as enabled under the law?

MR. SICKINGER: Object to form.

A To -- I mean, there is an

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internal process and an external purpose I guess you could say.

Q Explain both.

A Internal purpose would be for us to track the -- the complaints that we're getting so that we could know if there's a problem in a particular category, so we can identify it as early on as possible and try to address it if it needs to be addressed. The external component is for public transparency so that the public can know some degree or have some degree of transparency in what's being filed. If not, you know, the public can't find out about, you know, the specific cases and our dispositions and our investigations but it's helpful to have the public have some information on the operations of the agency, what kind of complaints it's getting so that they can draw their own conclusions or, you know, do whatever they want with the information. So it's just a public transparency requirement. It's pretty standard in the field to report as much information like this as you can.

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Q And did you find it helpful in concluding with your investigations and in your role as administrator?

A Oh, sure, yeah. I mean, you know, our concern with the excessive force, the high numbers of excessive force complaints in the early years, we were able to, you know, track those numbers through 2015 and see if that declined in 2015, which told us -- we felt told us that at least maybe some of what we were doing was having an impact, having an effect. Others may disagree with that assessment but it allows us to know that at least we're getting less complaints of excessive force after three years or so of doing this work. You can draw conclusions from that why, but knowing what we're getting is the first step.

Q I'm going to follow up with Exhibit 20 which was previously marked. Could you identify that document?

A This is the annual report for 2014 or the summary page.

Q And like the last two documents

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that you had reviewed, that document there has these statistics on the different types of alleged violation by the Police Department, correct?

A Yes.

So this is sort of an abbreviated version of what comes at the end of the report. This is essentially like an executive summary. So it lists how many complaints we received in 2014 which was 107, held twenty-five hearings, sustained rate for 2014 was nineteen percent, meaning twenty-one of the 107 complaints received resulted in sustained findings.

For that year, excessive force represented forty percent of the complaints we received. Eighteen out of the forty-three those -- of those, forty-three excessive force complaints were sustained by the CRB panel, which represented seventy-two percent of the sustained findings for that year, and forty-two percent of the excessive force complaints were sustained. Untruthfulness we had thirteen sustained findings which

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represented fifty-two percent of the hearings that had a sustained finding so obviously, there's some overlap there in the untruthfulness and the excessive force. You have both of them happening at the same time.

Then we have a summary of our disciplinary recommendations -- CRB disciplinary recommendations, we have four recommendations for retraining, sixteen recommendations for a written reprimand, twenty-one recommendations for suspension, and three recommendations for termination.

Then the page concludes by noting that the disciplinary, what call the disciplinary action rate which means the rate at which the chief impose -- imposed discipline on when the CRB recommended it, we had six percent for that year. The CRB received sixteen responses from SPD from the chief to twenty-one hearings, in which we had a panel sustain an allegation. So that indicates to me that part of that year in 2014, we still weren't receiving all the written responses from the chief but we got a

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2 big chunk of it, sixteen out of twenty-one.

3 Q Now I'm going to ask you a  
4 question. In the course of your  
5 investigations as a member of the CRB, would  
6 you go back and look in the past to see  
7 whether an officer had already -- because let  
8 me just preface that. The CRB predated your  
9 tenure, correct?

10 A Correct.

11 Q So would it be common to go back  
12 into the files of the CRB to look into  
13 whether or not a police officer had been  
14 either brought before the CRB or had a  
15 sustained finding against them previous to  
16 the complaint that you're handling at that  
17 particular time?

18 MR. SICKINGER: Object to  
19 form.

20 A Right. So, unfortunately, from  
21 the years preceding me, my tenure as  
22 administrator, we have all the case files,  
23 all the case files were in the office, but  
24 they're not cataloged in any way by officers  
25 involved in the complaint, so we had no way,

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1 other than read through every single file  
2 which is impossible, by that point it was  
3 fourteen or so years of files, so we had no  
4 way of sort of efficiently assessing how  
5 frequently an officer before us now had been  
6 before the board in the past. So the old --  
7 unless the complainant came in and said, I  
8 filed a complaint in 2008 and it was the same  
9 officer, then we could go to that file, pull  
10 it, and have that information.

12 What we ended up doing though,  
13 once I came in in 2012, we obviously started  
14 tracking everything by officer, by  
15 complainant, by case number, so we could go  
16 back and look at the officer's history. So  
17 what we would do when we held a hearing for a  
18 case, I would not disclose to the panel  
19 members the officer's history with the CRB  
20 during the hearing testimony phase. And when  
21 they're questioning the complainant, if  
22 they -- then there -- they deliberate if they  
23 sustain it and they get to the disciplinary  
24 stage, then I would disclose to them for the  
25 purposes of progressive discipline if the

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1 officer had a history with the CRB and what  
2 that history was. But I -- we would not  
3 disclose it before they made their decision  
4 on whether to sustain or not because we did  
5 not want that to taint their decision saying,  
6 oh, well, we sustained three allegations  
7 against this officer so he must have been  
8 disciplined. We didn't want these set up  
9 that way. Every case had to be decided based  
10 on merits and the evidence of the case, so we  
11 would hold off on telling the panel.  
12

13 Now, panel members would  
14 sometimes recognize an officer's name. Oh, I  
15 know. We've seen that officer before or  
16 something like that, but they wouldn't know  
17 the exact record until they got to the  
18 disciplinary stage. And then that's when  
19 they need to know, okay, this is the first  
20 time this officer has -- has been alleged  
21 against this officer, it's the first time he  
22 appeared before the CRB and so they would  
23 take that into consideration in making their  
24 disciplinary recommendation.

25 If, on the other hand, it was the



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third or fourth time this officer had a case it appeared involving this officer before the CRB and recommended -- you know, sustained, now sustained something against this officer in the past and recommended discipline in the past, then they need to know that when they came up with the disciplinary recommendation for that particular case.

So that was the logic of how we sort of -- our rules for disclosing history of complaints against an officer to the panel. Is that clear?

Q It is very clear actually.

And I actually do have a follow-up. Who -- was that your idea; that's something that you had initiated --

MR. SICKINGER: Object to the form.

Q -- to the CRB or something that had been in place previously?

MR. SICKINGER: Object to form.

A It was not in place previously. It was something that came out of discussions

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amongst our board, ask -- whether the board members started asking, you know, do we -- does this officer have a history, do we need to know this, and then that started a conversation where we said, okay, let's think about this. What's the fairest -- best way to do this? And so then we had a board discussion like we were asked to do, we sort of the made decisions --

Q Interesting.

A -- by consensus.

And again, the administrator works for the board members so I would -- on most big questions like that, I would sort of initiate the -- facilitate the conversations, they would make a decision and then I would carry out the decision. So after talking about it, they decided -- you know, sometimes I would give them recommendations on what I thought would be the best way to go or whatever agencies were doing it around the country. It's -- I think this conversation played out in a similar way.

Q I want to hand you what's marked

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as Exhibit 51. This is a little bit of a lengthy document. I'm not going to ask you to look all the way through it. Okay.

(Documents were was marked as Plaintiff's Exhibits 51 through 54 for identification, as of this date.)

Q I'm going to have you just kind of look it over real quickly and some of these documents are going to predate your time on the CRB, so I don't expect that you would necessarily have knowledge in regards to these documents, but in the spirit of our previous questioning whether or not you ever had -- were privy to previous complaints or previous documentation, I just want to know whether or not you had ever come across these documents or whether you recognize the particular officer.

There are officers in these that are not redacted because these are the officers that were involved in our particular case. Okay?

So just go ahead and then take a

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quick look and then you should be able to just kind of get through it on the original one. See if you recognize the document.

A I'm just going to take a restroom break.

Q Go ahead.

(Whereupon, a recess was taken at this time.)

MR. RYDER: Back on the record.

Q So, I had previously gone over some documents with you, Joe, on the records that were entitled Exhibit 18, 19, 20 which were the CRB annual reports for 2012, 2013, and 2014. Is that right?

A Correct.

Q Within those documents we asked you to go ahead and go down through and read to us these compiled statistics for each one of these years; isn't that correct?

A Correct.

Q And then you had taken the time through the course of your employment at CRB to carefully document the percentages of each

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one of these particular allegations for, say, excessive force, unlawful imprisonment, et cetera, et cetera, et cetera, and then you took the time to go ahead and document the sustained findings for each one of these particular allegations, correct?

A Correct.

Q So, you mentioned earlier in your testimony that part of your job as administrator of CRB was to go ahead, to be aware of and document patterns of particular offenses that were either alleged or sustained within the CRB, correct?

MR. SICKINGER: Object to form.

A So the ordinance asked us to look at the policy in training issues. Generally in the field -- in the field of civilian oversight law enforcement, we'd look at patterns and practices and so I consider that part of my purview, yeah.

Q So in -- within these documents here that we had previously gone over, particularly Exhibit 18, 19, 20, you had gone

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1 ahead and read to me those statistics there  
2 where you had documented the total findings  
3 of each particular allegation and what  
4 percentage those were in regards to total  
5 complaints, correct?  
6

7 A Correct.

8 Q So, in the course of your tenure  
9 at the CRB it'd be fair to say in regards to  
10 your previous testimony that you did notice  
11 patterns for particular allegations and  
12 sustained findings, correct?

13 A How you define a pattern, you  
14 know, it's -- could be kind of tricky, I  
15 guess. We certainly found patterns in the  
16 complaints that we were receiving if I could  
17 put it that way. Yeah.

18 Q Did you -- you didn't notice any  
19 patterns in your sustained findings?

20 MR. SICKINGER: Object to  
21 form.

22 A They -- I mean, no, we certainly  
23 found -- you know, there were cases that, you  
24 know, we put into categories in terms of what  
25 was alleged. It's hard to talk about

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patterns, obviously, because I mean, I know, I understand the import of that word in this context.

I think it's fair to say that the CRB identified issues that it wanted to see addressed and that it thought were problems. When you look up the definition of pattern and practice, there is no clear -- real clear definition. If someone wanted to provide me with a definition of that and then I can apply it, I'd be more comfortable doing that. But to say there's a pattern that existed, a pattern or practice that existed on A, B, or C without those words being defined, it's hard for me to do. So I think the most accurate thing I could say is that there were clearly issues and concerns that the CRB had --

Q Okay. Fair enough.

A -- related to use of force.

Q Fair enough.

Somebody in your field obviously is somebody who's going to be very well versed and educated in these concepts of

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pattern and practice, and as an attorney, I probably am not going to be, so I don't really want to get into that with you as far as education on those issues because I'm sure you understand them better than I do based on what you do. Okay.

So let me ask you this: So these areas of concern that you identified, would it be fair to say that excessive force would have been one of those areas of concern to their job?

MR. SICKINGER: Object to form.

A Yes.

Q I'm going to stop you. So would it be fair to say that lack of truthfulness would have been one of these areas that you would have considered an area of concern?

MR. SICKINGER: Object to form.

A Yes.

Q And so we can go down through each one of these. False imprisonment would be an areas that you would pay attention to



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and identify as an area of concern?

MR. SICKINGER: Object to

form.

A False imprisonment in terms of  
false arrest?

Q False arrest, I'm sorry.

A Yeah. That was less -- the false  
arrest was -- the numbers weren't as high as  
our, say, excessive force allegations, for  
example.

Q Fair enough.

A But it's an important issue that  
we kept an eye on.

Q Fair enough.

I don't want to put any words in  
your mouth, but like I said, this is asking  
you this. So why don't you just briefly  
identify quickly what you think that those  
areas of concern were while you were a  
tenured CRB in Syracuse.

MR. SICKINGER: Object to

form.

A The top three were pretty  
consistently excessive force, failure to act

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and demeanor. Those were the three biggest categories in those three or four years.

Q So I'm going to ask you, had anybody from the Police Department, particularly the chief, ever communicated with you in regards to what they may do or may not do in regards to changing or addressing the issue of excessive force within the Police Department?

MR. SICKINGER: Object to form.

A When I raised -- when I first raised the issue of -- of updating the use of force policy, I was in a meeting with the chief and I think the mayor's chief of staff and I told the chief, you know, that we needed to update this policy that, you know, I gave my presentation on it and his response was, it'll never happen, not as long as I'm chief. He said, that's going to get an officer killed.

Q Okay. Let me ask you this: Has anybody from the mayor's office addressed the issue of excessive force in the same type of

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way where they would have reached out to you and sought your assistance on what they could or could not do to curb that concern with the CRB?

MR. SICKINGER: Object to form.

A No one from the mayor's office that I can recall ever raised the issue of use of force with me or responded to any of our concerns that we raised. I was -- I forget how the interaction occurred but there was an attorney from the Corporation Counsel's office who kind of indicated to me at one point several years ago that I think it was after we made one of our first or second recommendations to provide the use of force policy, that she was working on it, on the use of force policy, so I was happy to hear that. But a year or so went by and nothing ever came out of the office in terms of the use of force policy that we made our 2015 annual report recommendation that included the full use of force policy.

Q Do you recall that person's name?

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A So how does this work if someone asked me to keep that in confidence and I would like to respect that?

Q Then we're going to allow you to do that. I'm not going to pressure you any further.

A Okay. Thank you.

Q Had anybody from either the mayor's office or the City or Police Department ever asked you whether you had ever noticed any patterns in excessive force through your career at the CRB?

MR. SICKINGER: Object to form.

A No.

Q So I'm going to just kind of go through these other two very quickly even though we probably know the answers.

On the failure to act, had anybody at the Police Department, chief of police or anybody at the Police Department, reached out to you and addressed the issues that you thought were a concern during your tenure at the CRB over the issue of failure

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to act?

MR. SICKINGER: Object to

form.

A I did not -- I mean, we reported those numbers in our report, but we didn't make a policy recommendation or training recommendation on failure to act, I believe. So there was -- I was not really pushing them to respond to that one necessarily. But no, I never got any.

Q Right. And that's a different question.

A Yeah.

Q Had anybody ever reached out to you in regards to the findings that you had come up with in your annual reports or had anybody identified from the Police Department the issue of concern over the failure to act and address that with you?

MR. SICKINGER: Object to

form.

A No.

Q Anybody from the mayor's office?

MR. SICKINGER: Object to

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form.

A No. When I did my first quarterly report, I did contact the mayor's office and ask if I could sit down with the mayor to go through the report with her to give her a, kind of a heads up on what was coming and the mayor declined to meet with me. She said she would wait until it became public and she'd read it when it became public.

Q Had the mayor ever met with you?

MR. SICKINGER: Object to form.

A Not individually. She had me come into other meetings where other people were present to talk about the CRB. That was very early on. But we never had a -- we never had a one-on-one meeting.

Q In those meetings with the mayor where the mayor was present, was there ever any discussion between yourself and the mayor over what could be done to curb what you had identified as administrator of the CRB as issues of concern, particularly excessive

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force, failure to act, or demeanor?

MR. SICKINGER: Object to

form.

A No. I don't think any of the contents of our investigation or findings were discussed with the mayor. It was -- I think the two meetings, one was with a few board members where I was just getting started. It was just kind of an introduction meet and greet with the mayor. And then she had me come in twice with a group of ministers and kind of explain what the CRB does, what it had been doing up to that point with these administrators, but that was it.

It was more so of a general overview of what the CRB does, how it operates, how they could put their -- their constituents -- not constituents. What do you call a church order? Congregates in touch with the CRB if they need to file a complaint.

Q To your knowledge, the mayor has access to these CRB reports, correct?

MR. SICKINGER: Object to

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form.

A We give them to Corporation Counsel's office so I wouldn't speculate beyond that.

Q They were made public, correct?

A The annual reports, yeah, those are on the website.

Sorry, that's what I thought you were referring to, our finding letters. Yeah, those are made public, and I'm actually required and we would always send those directly to the mayor, common councilors, the chief of police. We were required under the ordinance to provide a copy directly to them in addition to putting it on the website.

Q Just quickly, so on the issue of demeanor, and that was an area, you said was one of the top three that you had identified while you were at the CRB, of concern, correct?

MR. SICKINGER: Object to form.

A Correct.

Q Okay. So on that issue of



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demeanor like the other two issues, had anybody from the Police Department, the chief of police, anybody from the Police Department or anybody from the mayor's office ever reached out to you or reached out to the CRB, to your knowledge, to try to find a way to address those concerns or issues that you identified, particularly with demeanor?

MR. SICKINGER: Object to form.

A No.

Q And in follow-up to that then, Joe, I know that you had not identified false arrest or untruthfulness or other issues of conduct being active or passive as particular areas of concern that were raised within the top three, but did -- had anybody from the chief's office or anybody from the Police Department or the mayor's office addressed any of those issues individually in the same way to try to find a way to address those issues and work with the CRB?

MR. SICKINGER: Object to form.

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1  
2 A Not in a direct response to any  
3 sort of, you know, effort by us to put it on  
4 their radar asking for a response. In some  
5 of the finding letters that the chief would  
6 get where we would find untruthfulness, I'm  
7 sure he would respond in writing. You know,  
8 I think the typical response in a case that  
9 involved around a he said/she said situation  
10 was to indicate that he felt the officer's  
11 account was more compelling and that he did  
12 not believe the plaintiff's account, so we  
13 were disagreeing on that point.

14 So in that sense, it was a  
15 response to our concern about untruthfulness  
16 in a particular case and he was simply  
17 responding, saying, no, I believe the officer  
18 and I don't believe the complainant.  
19 Paraphrasing.

20 Q Okay. So we have just these  
21 exhibits here that we want to just have you  
22 briefly review, see if you recognize these,  
23 and if you do, then we're going to have some  
24 follow-up questions. Okay?

25 MR. RYDER: And I need one

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more exhibit tab, that's to be  
Exhibit 55.

(Document was marked as  
Plaintiff's Exhibit 55 for  
identification, as of this date.)

Q I'm going to hand you what's been  
previously marked as Exhibit 51. I want you  
to just take a look at this document for the  
record that I'm going to identify that this  
is part of a police file for Officer Lockett  
which -- in which he's indicated that he's  
been involved in some type of a complaint.  
Okay?

I don't know whether there was  
ever a CRB report, I don't know whether  
anybody had ever -- a citizen had ever filed  
a complaint officially, I don't really know.  
So what I'm going to do is I'm going to hand  
you this and this document is a predate to  
your tenure in regards to whether or not you  
had ever had to use previous files that were  
on file with the CRB or ever identified any  
of these documents.

So take a look at that and just

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read real quickly the facts of that case as portrayed by the officer and see if you recognize that document. Or that incident I should say.

A No, this is not familiar to me.

Q Fair enough.

I'm going to hand you what has been marked as Exhibit 52. And this, once again, is an investigation from Captain Galvin in regards to a complaint of excessive force against Officer Lockett. I'm not sure if the CRB was involved in that whatsoever.

The officer, Lockett,  
L-O-C-K-E-T-T? Yes, two T's.

MR. SICKINGER: On the  
record.

Is your question for the  
witness if he recognizes this as  
54? Or 52.

MR. RYDER: Yes. I'm just  
going to have him read through  
the brief facts as portrayed by  
Captain Galvin, if he recognizes

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that. Because we don't have anything from the CRB so we don't -- the CRB -- we were asking him if he has knowledge. If he doesn't, we're not going to further ask about it. That's not --

MR. SICKINGER: I'm just trying to save time. So your question is just does he recognize the document?

MR. RYDER: Does he recognize -- well, no.

MR. SICKINGER: Or the scenario.

MR. RYDER: The scenario contained in the document. And if he does, then we'll have follow-up questions.

A No, this one isn't familiar to me either.

Q Okay. So it's fair to say you're unaware of any complaint of the CRB, investigation of the CRB, sustained findings

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2 of the CRB, et cetera, et cetera in regards  
3 to the facts as you read them there?

4 A In regards to these two cases you  
5 just showed me, yes.

6 Q Fair enough.

7 Okay. This is a -- another  
8 report generated -- Police Department in  
9 regards to a complaint of excessive force and  
10 investigated by Captain Galvin in regards to  
11 Officer Damon Lockett. I'm going to have you  
12 take a quick look. You can read on the front  
13 page here a little bit on handwritten  
14 civilian form and then there's about four  
15 pages back, see if there's -- see if you  
16 recognize any of the facts associated with  
17 that case.

18 A No, this is not familiar either.

19 Q I'm going to hand you what is  
20 marked as Exhibit 54. Now, this is a  
21 document -- series of documents dated  
22 throughout 2012. And these documents are in  
23 regard to an investigation of excessive force  
24 against Brian Novitsky. I'm going to hand  
25 you this document -- compiled documents

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2 marked as Exhibit 54. Do you recognize those  
3 documents, any of those documents?

4 A The content?

5 Q The content, yes.

6 A This one I definitely recognize,  
7 yeah. I recognize my handwriting too. This  
8 was probably one from a justice center inmate  
9 so sometimes they wouldn't want to write it  
10 themselves. Sometimes they couldn't read or  
11 write so I would fill it out as they were  
12 telling me. Yeah, this is my handwriting on  
13 the complaint, so. And we acknowledge that,  
14 that I assisted in completing the form.

15 Q I'm going to ask you to go ahead  
16 and take a little time to refresh your  
17 recollection by flipping through that  
18 document.

19 A Okay, yeah. I got a statement  
20 here that I took from the person.

21 Q Tell us briefly what you recall.

22 A Let me just finish skimming real  
23 quick. Sorry. There's a lot of details --  
24 the rest of the details.

25 Q Go ahead.

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Okay, thanks, Joe.

Tell me briefly what the packet of documents contained in Exhibit 54 entails.

A So it's a number of different documents. It's the chief's final decision, a memo documented his final decision in this case. The letter that went out to the complainant, complainant's original complaint form. Statement that I typed up as investigator for the case after receiving the statement from the -- directly from the complainant after he was in jail. Then it's Captain Galvin's report, the Office of Professional Standards report for the case. It's the 10-1 statements which are the F10.1 which are the written responses from the officer, then use of force report and the police reports, the narrative sections, some evidence technician photos, some booking photos, redacted, and the CAD report, which is a -- CAD, C-A-D, computer-assisted dispatch. It's the CAD reports for the case, for the incident. That's it. Oh, wait. And then a letter, another copy of a letter from



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the chief, looks like to the complainant.

Q Okay. Do you recall the facts of that case?

A The general outlines of it, yep.

Q Tell me a little bit about that.

MR. SICKINGER: Object to form.

A A young man fled from police, a foreigner because he had a warrant out, ran through some backyards, attempted to scale a fence, got caught at the top of the fence, an officer caught him at that point and they all ended up -- I can't remember if they went over the fence or fell back down to the ground, but either way, they all ended up on the ground. The complainant alleged that the officer struck him several times, I think about the body and maybe the head and face. And then the other detail I remember about this case is the complainant alleged that the officer stuffed dirt in his mouth while they were on the ground and pulled him behind a fence. And the complainant was sort of implying that he pulled him behind the fence

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1 so he would be more hidden while he struck  
2 him. And then there was something about his  
3 pants being pulled down, I think as he was  
4 being escorted from the scene to the car,  
5 maybe right there at the scene. I think  
6 during the initial search of his person, he  
7 alleged that the officer pulled his pants  
8 down to his knees or to his ankle, something  
9 like that. So that's the basic outline of  
10 the case.  
11

12 Q So did you do an investigation?

13 A I did, yes.

14 Q Okay, and did your investigation  
15 find that there was a warrant for the  
16 hearing?

17 A So the way our process would work  
18 is I would conduct the investigation, put the  
19 report together, and recommend whether there  
20 is a hearing or not, whether there -- the  
21 panel should vote for a hearing or not -- or  
22 the board should vote for a hearing. And  
23 then the board decides to send it to a  
24 hearing. It's not -- it's not my decision.  
25 It's a recommendation from me.

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Q Understood.

A I would defer to the written record on this one. I don't believe this one went to a hearing and I don't remember what I recommended, if I recommended it go to a hearing or not. Most of the time, the board would follow my recommendation but not always, so they could have -- I'm pretty sure this did not go to a hearing. I kind of remember having a phone call with his mom, explaining it to her.

So yeah, pretty sure it didn't go to a hearing but I don't remember which way I recommended it, but there's a record of that to document that, that would tell us that.

Q There would be but we hadn't received anything and we were curious as to why.

A Right.

Q And that very well could explain that, right?

MR. SICKINGER: Object to form.

A I wouldn't speculate as to why it

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wasn't provided.

Q I'm going to hand you what has been marked as Exhibit 55. This one's a little longer. Just take your time and see if you can recognize that document, series of documents.

MR. SICKINGER: Off the record.

(Whereupon, a discussion was held off the record.)

A Okay, I remember now. I do remember the very basic outlines of this case. I don't remember the outcome of this one.

Q Okay. I think to save time, I mean, had you -- do you recall recommending a hearing in this particular case?

MR. SICKINGER: Object to form.

A I don't recall either way. There's a document of that that would tell us that, but I just don't remember.

Q So in kind, you wouldn't recall any disciplinary recommendation as well?

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MR. SICKINGER: Object to  
form.

A Yeah, I just don't remember. I  
remember the guy, I remember dealing with  
him, I just don't remember what happened.

Q Do you remember the particular  
facts surrounding the case?

A The very basics of it.

Q Tell us --

A I think this guy had, I think he  
had more than one complaint or he had  
initiated another complaint at some point  
down the road, so that's why I'm having  
trouble remembering exactly what happened in  
this one. The basic outline was he fled from  
police. As he was running -- he alleged that  
as he was running one of the police vehicles  
rammed him, the driver of the vehicle rammed  
him, injuring his leg. I remember the injury  
to the leg. It turned out not to be as  
serious as it sort of appeared in the first  
initial complaint. But he did have an injury  
to his knee. Then so after he's arrested,  
oh, yeah, this is -- that's right. This is

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one that involved an offer to eliminate charges in exchange for information, so there was a discussion. I think it was -- there was a discussion in the lockup area at the justice center before he brought him into booking.

Hope I'm not getting confused. I think it's the right one, where the officer was trying to get some information out of him, out of the complainant and so we investigated that angle of it as well as the use of force. Whether there was some kind of quid pro quo exchange for his information in exchange for some kind of drop the charges or -- so that's -- we talked about that whole situation, that issue earlier. That's why it came on our radar.

So yeah, that's about all I remember.

\*MR. RYDER: For the record, you know, we're going to request if there's any CRB documents associated with it because he can't recall. On the other ones

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he could recall if he had not made a recommendation. On that one he can't recall whether he made a recommendation so we're going -- he can recall that -- this one, Exhibit 54, he can recall that he did not make a recommendation.

A Just to correct, I can recall that it did not go to a hearing, that the board didn't send it to a hearing. I don't recall if I recommended it went -- to go to a hearing or not.

MR. SICKINGER: That was number 54?

THE WITNESS: That was -- yeah. I remember the guy's -- the kid's name.

Q Hand me 55, please.

So for the record, I do want to identify this. So this would have been an allegation of misconduct against Brian Novitsky. The complaint was false arrest and it was investigated by Thomas

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2 Galvin and the case report 13-105, is -- for  
3 the Syracuse Police Department was dated  
4 August 19, 2013.

5 So it's your testimony that you  
6 cannot recall whether you had recommended a  
7 hearing on this, whether or not there was a  
8 hearing, what any outcome would have been?

9 A Correct.

10 Q Okay.

11 \*MR. RYDER: So just because  
12 of that, I would ask that your  
13 people -- that your office  
14 produce the CRB report, if any.  
15 Okay.

16 Q I'm going to back up real quick.  
17 This will be the last thing. This is back in  
18 regards to Exhibit 20, which was the annual  
19 report for 2014. I'm going to also hand you  
20 in regards to that document what has been  
21 previously marked as Exhibit 17. See if you  
22 recognize that document.

23 A So Exhibit 17 is a newspaper  
24 report or media report on -- our annual  
25 report for looks like 20 -- yeah, 2014. Just



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noting that the Citizen Review Board recommended discipline in twenty-one cases, chief imposed sanctions of discipline on one. Give some of the numbers that I gave earlier about half of the twenty-one cases resulted -- that result in the CRB recommendations involved complaints about untruthfulness and more than seventy percent involved claims of excessive force. It quotes a person from the NYCLU, then it references our -- CRB's desire to see a more consistent scale of discipline. That's the disciplinary matrix I was referring to earlier.

It goes on to talk a little bit about cases with video, body cameras.

Q Do you recall when this document was published?

A I mean, the date on it says it was published March 24, 2015. That would have been timed with the release of our annual report which was due on March 31st every year. I don't -- I mean, I've read a lot of media reports about our work so I

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1 don't recall this one in particular, but it  
2 says it was published on March 24, so I'm  
3 presuming that was accurate. It fits with  
4 the release of our reports.  
5

6 Q Okay. So in response to this  
7 document or any other document that was  
8 published by the media in Syracuse, you just  
9 mentioned that you had been aware of several  
10 media reports, correct?

11 A Yes.

12 Q In response to those media  
13 reports, had you ever been reached --  
14 contacted by either somebody at the mayor's  
15 office or somebody at the Police Department,  
16 particularly the police chief, in regards to  
17 any of the findings or any of the comments  
18 that were made or quotes of you that were  
19 involved in any of these media reports?

20 MR. SICKINGER: Object to  
21 form.

22 A No, I don't think I've ever been  
23 contacted about any of my quotes in the media  
24 or the contents of the annual reports.

25 MR. RYDER: All right,

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2 that's it. We're out of here.

3 Let's get out.

4 MR. SICKINGER: Just a few  
5 questions.

6 MR. RYDER: Okay, sorry. I  
7 didn't mean to interrupt you.

8 EXAMINATION BY

9 MR. SICKINGER:

10 Q Mr. Lipari, I will try to keep  
11 this brief. I know you've answered a lot of  
12 questions and been here a long time already.

13 Part of why I'm here today, did  
14 you speak to anybody about being subpoenaed?

15 A Just my general counsel at my new  
16 office, just to give them a heads up that I'm  
17 going to give a deposition, ask them if there  
18 is any policies that I need to be aware of  
19 and just told me the only thing that I  
20 shouldn't talk about is anything that relates  
21 to any of the projects that I'm working on  
22 for the office.

23 Q Mr. Lipari, I should have asked a  
24 foundational question. You did receive a  
25 subpoena?

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A I did, yes.

Q And did you receive a witness fee with that subpoena?

A Oh, like money for me? No.

Q Did you receive any communication about coming to a deposition prior to receiving the subpoena?

A Phone calls and a piece of follow-up e-mails, just trying to figure out the dates of it from Mr. Bonner's office, Calvin, so just logistically.

Q Scheduling type of issues?

A Right.

Q Then after you agreed on the date, then you received the subpoena?

A I don't remember if we agreed on the date, and then I received -- I must have. We must have agreed on the date. I think there was a period we were talking about, the 25th and the 26th. They weren't sure which day it was going to be. I think I said either one would work. And at some point I received a subpoena.

Q Did you speak to any of the

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attorneys involved in this case prior to  
coming here today?

A Well, back when I was  
investigating the case, they were with the --  
with the complainant in my office at some  
point, I think Mr. Bonner was. I'm sure as I  
was collecting evidence, I'm sure I talked to  
them both on the phone at one point during  
the course of the investigation.

Q When you say Mr. Bonner?

A Mr. Bonner, I think -- I'm sorry,  
remind me again?

MR. RYDER: Attorney Jesse  
Ryder.

A Jesse Ryder. Yeah, I think Jesse  
and I probably spoke on the phone during that  
period as well, but it was more to collect --  
I think they had these videos of the  
interviews that they did so we were trying to  
get copies of those, so it was around that  
stuff.

Q And I won't make you go through  
it all again in part in the interest of time,  
but I know you put your educational

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2 background on the record. Have you received  
3 any legal training?

4 A No, not anything that I would  
5 call formal.

6 Q Have you received any law  
7 enforcement or police training?

8 A Yes.

9 Q What training did you receive?

10 A So I had training in use of force  
11 policies and practices, Internal Affairs  
12 investigations, these were like -- those were  
13 like week-long trainings. You attend the  
14 training for like -- usually like a week or  
15 so and then you would get a certificate at  
16 the end saying that you -- you attended this  
17 training.

18 Q Where did you go for that?

19 A The use of force one was Eric  
20 Daigle's law firm. He's a former Connecticut  
21 State trooper and now does -- an attorney now  
22 who does trainings and sort of helps  
23 departments rewrite their policies. But he  
24 has this annual summit called Use of Force.  
25 I attended that in 2014. I tried to get an

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1 attorney from the Corporation Counsel's  
2 office -- an attorney from the Corporation  
3 Counsel's office to come with me because I  
4 was trying to get a -- change his use of  
5 force policy but they didn't send anyone with  
6 me. So that was Eric Daigle, use of force  
7 conference, D-A-I-G-L-E.  
8

9 Then the training on Internal  
10 Affairs, that was at University of North  
11 Florida, in Jacksonville. I want to say that  
12 was 2013. That was like a week-long training  
13 seminar on conducting Internal Affairs. That  
14 was actually mostly law enforcement; I was  
15 the only civilian.

16 And then I had our National  
17 Association of Civilian Oversight of Law  
18 Enforcement, our national organization for  
19 the field, we have a conference every year.  
20 It talks about -- presented at those  
21 conferences and each of those panels. There  
22 is a lot of legal training, a lot of  
23 training. It's a lot of presentations and  
24 legal topics, other areas of the field, so we  
25 get a lot of new information each year at

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1 this conference.

2  
3 Q Mr. Lipari, do you have any  
4 training with regard to conducting  
5 investigations?

6 A At the Internal Affairs training  
7 that we did at the University of North  
8 Florida in Jacksonville, that essentially is  
9 what the training was, how to conduct  
10 investigations, how to conduct interviews,  
11 how to assess credibility, all sorts of  
12 things.

13 Q You said that was a week-long  
14 training?

15 A Yes.

16 Q And the entire week was devoted  
17 to that topic?

18 A It was essentially devoted to --  
19 it was about two years ago so I'm trying to  
20 remember -- all aspects of Internal Affairs  
21 investigation, so, you know, it was like a --  
22 what I was just saying, it -- you know, how  
23 to conduct interviews, how to gather  
24 evidence, how credibility -- how to set up  
25 investigations in terms of if there's



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criminal charges, then you need to bifurcate the investigation so that there is an administrative investigation and a criminal investigation, the timing of those, when does it make sense to do the criminal investigation versus opposed to the administrative investigation. So it's basically everything that you need to know to run an Internal Affairs operation.

Q Other than the training you just described, have you received any other training on how to conduct investigations?

A Before I started in the field, as a historian, we did historical investigations in terms -- so, you know, it was a lot of skills, sort of transfer in tracking down documents, conducting interviews, so I had some of that, you know, in grad school.

In terms of formal training it would mostly be that training conference that I discussed at the University of North Florida.

Q You said it was about two years ago?

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A I have the certificate in my office. I could get the date for you, but I want to say it was 2013. I think it was 2013. But I would have to double check.

Q So it was after you had already ended your employment with the City of Syracuse?

A Correct, yes.

Q Other than the training you already described, Mr. Lipari, do you have any -- strike that.

Mr. Lipari, the incident that is the subject of this lawsuit, the allegation by Mr. Grant that this officer used excessive force on him, do you have any personal knowledge of the incident itself other than what witnesses have told you?

A I mean, I was not there when it happened, so no, I wasn't a witness, but that's true for all of the cases.

Q Sure. So your knowledge is then based on what witnesses have told you and what documents you've reviewed?

A Correct, yeah, what the witnesses

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1 told us, what the police reports reported,  
2 what the police officer reported in their  
3 reports, use of force investigations, that  
4 form, evidence technician photos, so yeah,  
5 all the documents that have been provided to  
6 us.  
7

8 Q Were there any other sources of  
9 information that you would have used or  
10 obtained as part of your investigation of  
11 Mr. Grant's allegations?

12 A I can't think of anything outside  
13 of testimony documents from the department.  
14 I'd have to check the file just to be sure  
15 but I don't think there was anything else.

16 Q You mentioned earlier something  
17 about some videos I think you reviewed that  
18 Mr. Bonner might have conducted some  
19 interviews?

20 A Those were interviews, yeah. Not  
21 a video of the incident but interviews that  
22 he had conducted with the complainant and his  
23 wife, I guess shortly after the incident or  
24 right about the time he was filing a  
25 complaint.

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2 Q So your review of those, that was  
3 part of your investigation as well?

4 A Sure, yeah.

5 Q Do you know, did you make copies  
6 of those for your file or anything like that?

7 A They -- were these -- I think --  
8 I forget how they were provided to me. You  
9 know, if they were provided to me on a disc  
10 then they would still be in the file.  
11 Something is making me think that these were  
12 on YouTube. Were these on -- I don't know  
13 if -- yeah.

14 So I might have had some YouTube  
15 links and then I might have gotten some on  
16 disc, so yeah, I'd have to see the file to  
17 see. Typically they're not given to us by  
18 the YouTube link. They are given to us on a  
19 disc or a phone or something, so there will  
20 be a hard disc inside the file.

21 But I just -- because this one, I  
22 remember there were YouTube links, I think I  
23 would have put the YouTube links in the  
24 report if I didn't actually burn them onto a  
25 disc and put the disc in the file.

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1  
2 Q I apologize if you've already  
3 stated this, Mr. Lipari. So I just want to  
4 be clear, for this particular investigation,  
5 you would have relied on police reports, the  
6 witness statements, the videos that you  
7 reviewed of Mr. Bonner's interviews, then any  
8 interviews that you might have conducted as  
9 well?

10 A Correct. And then photographs  
11 from the evidence technician that showed  
12 injuries, you know, after the incident. And  
13 then, you know, some other documents from the  
14 department like the CAD reports, the  
15 computer-assisted dispatch stuff, just sort  
16 of routine records we would include in that  
17 as well.

18 Q Do you recall how many witnesses  
19 you interviewed as part of your investigation  
20 of Mr. Grant's claims?

21 A At least four but it was probably  
22 more like five or six. That would all be in  
23 my report, though, everyone that I  
24 interviewed.

25 Q Did you interview any employees

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of the City of Syracuse as part of your investigation? Of Mr. Grant's claim I should say?

A Right, right. I don't believe we did. That was typical. In terms of the people we would want to interview would be the police officers, but we never had the opportunity to do that.

So other than that, it wouldn't really be any other employees. Unless it was a City employee who was somehow involved in the incident, it would just be the officers that we would like to talk to.

Q In that meeting you described earlier with Mr. Bonner sometime previous to this day, was that when you were interviewing Mr. Grant?

A No. He was not present when I interviewed Mr. Grant. They came in -- I don't remember if it was to file the complaint or just to -- it must have been what it was. I don't know if Mr. Bonner recalls, but I just remember having them in my office at one point, both of them sitting

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1 in front of me. I think it was sort of the  
2 very early stages, kind of initiated -- they  
3 may have just been picking up the forms or  
4 turning in the forms, something to that  
5 effect.  
6

7 Q And the witnesses that were  
8 interviewed by Mr. Bonner in those videos  
9 that you reviewed, did you subsequently  
10 interview them yourself?

11 A I think I -- I don't want to say  
12 I got all of them but most of them, yes, I  
13 interviewed myself.

14 Q So most of the witnesses that you  
15 reviewed the videos of you think you  
16 personally interviewed as well?

17 A I believe so, yeah.

18 Q Did you do any background  
19 investigation or any criminal history  
20 investigation of any of the witnesses that  
21 you interviewed?

22 A We would typically get those  
23 kinds of documents from the department, from  
24 the Office of Professional Standards. If it  
25 was the complainant, as part of the CAD

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report, the computer-aided dispatch, it would include their whole record of arrest. So we would typically have that for our complainant in any case, so I presume we would have had it for this case; it would be in the file.

So that's something, you know, that we typically got from the Police Department. We don't have any direct access to databases that would provide that information to us so we would be relying on the police report to provide that to us.

Q What about like, how I use the term is third parties or just kind of witness bystanders who might happen to be interviewed by you, do you conduct sort of a criminal background investigation or ask the police to do that for you?

A If it's -- if it's sort of tangential to the case or like a key witness?

Q Either.

A We would submit what the witness provided to us, to the department and they -- I think I remember them saying -- coming back having run a -- either run a report on the



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complainant or -- or on the witness or in their report that they would give to us, they would mention sometimes if the person had a -- had a criminal record, but I did not have access to that -- those databases so I can't check it myself.

Q Do you recall if you obtained that information about the witnesses you interviewed in Mr. Grant's case?

A I don't recall. I kind of want to say the young man who gave -- who was a witness, the police -- I don't remember if the Police Department provided information on him or not. It was like two sisters of the family, two daughters of the family, you know, Stephanie, Alonzo, and then the young man, so, yeah.

Q And you think of those witnesses you might have gotten the background information on the young man?

A I'd have to double check the file.

Q Sure. Best of your recollection?

A Anyone would have any kind of

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record, it would have been -- most likely would have been him.

Q Did you ever speak to anyone at the district attorney's office, the Onondaga district attorney's office about Mr. Grant's case or claims?

A I would occasionally check in with the DA's office if I thought they had some testimony we might want or if I needed to know what stages some charges were at for our complainant or for a witness. And I know we were following, or I was following, you know, whether the charges were going to occur in this case or whether they were going to remain or be dropped. My contact over there I can tell you was Rick Trunfio, the assistant -- first assistant DA. Trunfio, T-R-U-N-F-I-O. I don't remember if I reached out to him particularly on this case to ask where the charges were.

The benefit of this case was it was all being reported on in the media so I think as soon as the charges were dropped, there was an article in the paper on it. I

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1 don't remember if I had a conversation with  
2 the DA's office or not about the charges or  
3 where it was going. We would just have to  
4 check the file to see if I made any just kind  
5 of note of that. But I did do that in some  
6 cases.  
7

8 Q You just stated a minute ago that  
9 you were following some of the news accounts  
10 of Mr. Grant's case?

11 A Sure.

12 Q Was that before or after you  
13 received complaints from him?

14 A Well, what I've been -- reference  
15 I just made about the charges being dropped,  
16 that would have had to have been after he  
17 filed the complaint with us, make sure the  
18 complaint was filed and the charges were  
19 dropped.

20 I don't remember how I first  
21 learned about the case, if it was from the  
22 complainant coming to me or if I read about  
23 it in the paper, but certainly there were  
24 multiple media reports along the way and I  
25 kept up with it, sure.

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Q As part of those media reports, do you recall whether or not the district attorney's office made any statements that were included in those reports?

A I do remember them making a statement when they dropped the charges. I can't quote it back to you, but yeah, I remember they made a statement kind of explaining the logic of why they dropped the charges. I don't really remember what that was.

Q Did you consider or use any of those newspaper articles in your investigation?

A I don't think I cited any in my report or anything. I wouldn't -- I don't think I would usually cite newspaper articles unless it was a piece of information that we didn't have elsewhere and it was relevant, but in my reports I wouldn't typically put into the reports sort of the development of the media narrative or anything because I was writing these reports for the panel members, for the board members. So it's possible that

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1 if there was a piece of evidence that was  
2 relevant to the decision they had to make,  
3 occasionally I would include a media report  
4 in that -- and reference it and provide a  
5 copy of it for them, but if it wasn't some  
6 new piece of information, if it was just a  
7 general story kind of repeating the incident  
8 and that we had all of this information, I  
9 would not include because I would not want to  
10 use -- have the media narrative shape the  
11 board members' or panel members' view of the  
12 case. I try to keep it as clean as possible.

13 Q Do you recall in Mr. Grant's case  
14 whether or not you obtained any information  
15 from any of the newspaper reports that you  
16 did subsequently use to your investigation?

17 A That, like, that I wouldn't have  
18 had otherwise?

19 Q Correct. You know, for instance,  
20 like the district attorney's office, they  
21 dropped the charges, I know that was --

22 A That would have been -- yeah.  
23 Now in terms of like witness statements and  
24 accounts, I would not have cited anything. I  
25

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would have gone directly to the witnesses and interviewed them, broke down -- report it to my board members what they told me.

Q I see. Okay, but in this particular case with Mr. Grant you don't recall what you did?

A I don't recall. I don't think I cited anything from the media reports, but there's a document there. We could check that.

Q Sure. Very briefly, Mr. Lipari, I just want to ask you about the hearing process itself. You testified earlier about the hearing but I just have a few questions about the actual hearing itself.

A Sure.

Q Are the witnesses that come before the panel, are they placed under oath before testifying?

A No. The reason why not is because in the ordinance, it says the -- there can be no verbatim transcript or record of the hearing. And so when we started creating these hearings after I first came,

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1 we were advised, I think by Bob Stanic  
2 (phonetic) -- no, I don't want to say that  
3 because I'm not sure about that. We  
4 decided -- it was decided that because you  
5 couldn't get a verbatim transcript of what  
6 was said, you wouldn't be able to make an  
7 assessment of perjury in the hearing.  
8

9 So -- so therefore, there was no  
10 purpose in swearing people in, putting them  
11 under oath. But we did convey to the -- all  
12 the witnesses at the hearings that we would  
13 convey to them basically that they were  
14 expected to tell the truth, you know, answer  
15 the question honestly and directly. But the  
16 real test is the board members' and the panel  
17 members' reading of the person giving the  
18 testimony. People can swear in all they  
19 want, but it's still a lie.

20 So the real purpose of those  
21 hearings was obviously to assess the  
22 credibility of the complainants, of the  
23 witnesses, whether or not they were sworn in.  
24 So we did not swear them in because it was  
25 irrelevant to our process in that you

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1  
2 couldn't check the record -- you couldn't go  
3 back to the record and say, well, this is  
4 exactly what you said. Now this is -- now  
5 you're contradicting it with this statement  
6 so we decided that there was no purpose to  
7 swear people in if you couldn't hold them to  
8 that testimony.

9 Q But there was nothing that  
10 actually precluded you?

11 A I don't think the ordinance  
12 precluded us, correct.

13 Q And you mentioned earlier  
14 credibility determinations. Who would make  
15 those credibility determinations about  
16 witnesses that come forward for a hearing?

17 A The panel members.

18 Q Would you play any part in those  
19 credibility determinations?

20 A Other than reporting what was  
21 told to me or what other evidence was  
22 gathered, no.

23 Q As part of your recommendations  
24 to the panel, did you ever include any  
25 information about credibility determinations?



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1  
2           A       I think typically what I would do  
3       is identify it as a credibility issue that  
4       needs to be decided and then say, so I'm  
5       recommending it go to a hearing so that the  
6       panel can evaluate the credibility of the  
7       officer and the complainant. So that's how  
8       it would be handled.

9           Q       Do you know how the panel makes a  
10      credibility determination?

11          A       In the course of the hearing they  
12      evaluate the testimony, the facts, the  
13      evidence, how it compares to other facts that  
14      were received, the person's demeanor, their  
15      body language, you know, that can all be  
16      considered. But we had some training of the  
17      board members on evaluating credibility,  
18      assessing credibility. We provided them  
19      directions that the juries get for the county  
20      on how to assess credibility which has some  
21      really useful stuff in terms of accepting  
22      every witness whether they are in law  
23      enforcement or, you know, the defendant in  
24      the case, or the, you know, person being  
25      prosecuted to evaluate -- you know, how to

J. Lipari

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1  
2 evaluate their credibility. So they were  
3 provided that.

4 And we had our outside legal  
5 counsel -- no, I'm sorry. We had one of our  
6 former board members who was a police officer  
7 and a former chief of police also give  
8 accreditation, sort of training presentation  
9 in one of the training days to our board  
10 members on assessing credibility.

11 Q You mentioned at the beginning of  
12 your answer that the board members have  
13 training on making credibility  
14 determinations. Was that like a formal  
15 seminar they went to or?

16 A That's what I was just saying  
17 about the -- giving them the instructions  
18 from the -- that the juries get in assessing  
19 credibility in the county and then having  
20 the -- so we had this annual training day  
21 where we brought in people from the DA's  
22 office, other experts in various areas, and  
23 one of our presenters in one of our training  
24 days was our -- one of our board member who  
25 was a former police officer and chief of

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1 police in Syracuse and he -- he gave a  
2 presentation on assessing credibility he had  
3 developed during his time as an officer.  
4

5 Q Do you know if board members  
6 received any other training on making  
7 credibility determinations as part of their  
8 work for the CRB, I guess part of  
9 volunteering for the CRB?

10 A I think those two that I just --  
11 I think there was sort of an ongoing  
12 discussion that we always had about assessing  
13 credibility, but in terms of formal  
14 instructions, it was the jury instructions  
15 and the training from our board member who  
16 was a former police officer, and I -- now  
17 that I think about it, there was another  
18 training we had prior to that one where our  
19 outside legal counsel before he was outside  
20 legal counsel put together a document for us  
21 on how to conduct hearings, and in part of  
22 that document included assessing credibility.

23 And so he presented that document  
24 at one of our training days. We discussed  
25 assessing credibility. That was always the

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1  
2 issue with every -- not everyone but, you  
3 know, most of the cases resolved around  
4 credibility issues so it was a sort of  
5 central focus for us throughout that period,  
6 either with training or just ongoing  
7 discussions.

8 Q Is that because most of the cases  
9 were on -- and I'll use the phrase, you know,  
10 just colloquially, but he said/she said  
11 allegations?

12 A A lot of them were, yeah.

13 And that's how we refer to them  
14 too. When there's no -- you know, the  
15 officer gives an account of -- the  
16 complainant gives an account and the officer  
17 gives an account that's different and there's  
18 no physical evidence, there's no video either  
19 way, and then, yeah, we would consider those  
20 he said/she said.

21 But that doesn't mean you can't  
22 assess credibility in those or you can't look  
23 at evidence, some evidence that may be  
24 relevant to the case. It just may not be  
25 enough to -- to make a decision based solely

J. Lipari

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on the documentary evidence.

Q Who determines what witnesses would testify at Mr. Grant's hearing or the hearing regarding Mr. Grant's claim?

A For all cases, Mr. Grant or anyone else, any witness I'd come across in the course of my investigation, we would want to have testify. We would occasionally subpoena. If the witness was uncooperative we would occasionally subpoena them, although that wasn't that common to have to subpoena a witness.

So it would be sort of a decision made by me as the administrator deciding essentially the same decision that I had to make what goes into the report, what's relevant for the panel members to read or, you know, be aware of. I could tell the panel members, we had witnesses A, B, and C that you received in that report. A says this and then B says this and then C says this, but when the C wasn't there, and you know, you sort of -- hearsay issues with the C, and do you guys want that witness to be

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there as well? And so the panel would typically beforehand decide based upon what I was telling them whether they wanted witnesses -- whether they thought a witness -- was relevant to have a witness there or not.

If I -- usually if I identified the witness, it was because they were relevant, so I'm trying to answer your question as directly as possible, but it was essentially a blend of who I identified and who the panel members felt was necessary to have in there. And then I would schedule it with the witnesses and, you know, try to get them there at the scheduled time.

Q Do you recall who testified at Mr. Grant's hearing?

A Mr. Grant, Stephanie, I believe it was two daughters, two of their daughters, and then the young man. There might have been one or two others.

Q Were there any witnesses that you interviewed or that you discovered during the course of your investigation that did not

J. Lipari

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testify at Mr. Grant's hearing?

A I don't think so. I think everyone who I got statements from for this case were able to get to the hearing.

Q Were any of the police officers present for the hearing?

A No.

Q Were any City employees other than yourself present for the hearing?

A No.

Q Who questions the witnesses?

A The panel members.

Q Did anyone ask questions of the witnesses at Mr. Grant's hearing on police officers' behalf?

A They don't ask questions on behalf of anyone. They ask their own questions for their own decisionmaking process so it's not set up where -- you know, and each side can bring attorneys. The officers can bring an attorney, the complainant can bring an attorney where their legal representation could ask those questions on their behalf.

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But that's the role of the panel members to argue the case one side or another. They're asking for their own knowledge on -- for their own purposes of making a decision in the case.

Q Do you recall, did Mr. Grant have an attorney present for his hearing?

A Yeah, Jesse, Mr. Ryder was there.

Q Did Mr. Ryder ask any questions of any witness at the hearing?

A I don't remember Jesse being that active, you know, in terms of interrupting or anything. I don't recall if he asked the witnesses any questions. When we've had attorneys before who ask more questions and then take a more active role and stick out in my mind, Jesse didn't stick out in my mind that Jesse was interrupting a lot or -- but I would think at some point he probably asked some kind of question or posed something.

But, yeah, that was two years ago, so I don't know exactly.

Q You said earlier that there might have been one or two other witnesses who you



1 J. Lipari 184

2 didn't recall. Was anyone from the district  
3 attorney's office present for the hearing?

4 A No.

5 Q Did anyone from the district  
6 attorney's office submit any documents that  
7 were considered at the hearing?

8 A I don't recall if we had any  
9 official documents from the DA's office. If  
10 we did, they would be in the file.

11 Q And Mr. Grant's hearing was not  
12 open to the public, correct?

13 A Correct. No hearings were open  
14 to the public.

15 Q And there's no transcript or  
16 recording made of the hearing; is that  
17 correct?

18 A Pertinent to the CRB ordinance,  
19 correct.

20 Q What standard of proof is used by  
21 the -- or panel members to actually make a  
22 hearing determination?

23 A Substantial evidence.

24 Q And is there a specific  
25 definition that the board uses to define

J. Lipari

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substantial evidence?

A The standard legal definition.  
And I should say the substantial burden of  
proof standard is in the CRB ordinance.  
That's what we're required to use.

Q So the definition that the panel  
uses is the definition of substantial  
evidence that's contained in the enabling  
legislation?

A The legislation doesn't contain a  
definition of substantial evidence but it  
does cite substantial evidence as the  
standard proof.

Q I guess what it's -- I'm just  
trying to cut to the chase and save some  
time. Mr. Lipari, how do the panel members  
get that definition of substantial evidence?

A I'm sure I defined it for them  
based on, you know, my research and looking  
up what the -- how you define substantial  
evidence. You know, you have substantial  
evidence and then you have -- top one is  
beyond any reasonable doubt, the middle one  
is preponderance of evidence. So I explained

J. Lipari

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1 to them those different levels and how  
2 substantial evidence is not fifty percent  
3 plus one; that's preponderance. But it's  
4 just evidence that you feel that the panel  
5 members feel is compelling and substantial.  
6 It doesn't mean that it has to be 100 percent  
7 sure, doesn't mean that there can't be other  
8 evidence that goes the other way, but it  
9 could -- but it essentially means there's a  
10 substantial amount of evidence the panel  
11 found or what everybody found evidence of  
12 whatever was being investigated in the that  
13 case, so.

14  
15 Q So, I guess just to understand  
16 then what you were saying, so the way you  
17 defined substantial evidence to the board  
18 members or the panel member was that it's not  
19 as high as preponderance of the evidence; is  
20 that correct?

21 A Correct, yeah.

22 Q Did you put in -- you mentioned  
23 just now that preponderance of the evidence  
24 is fifty percent plus one or something to  
25 that effect?

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A It's typically how it's defined.

Q Did you put any sort of number on substantial evidence when you defined it?

A No.

Q And so was that up to each board member then or panel member to determine what was substantial in their particular mind?

A I mean, they all had the same explanation, that it's something that they find compelling and relevant, but it didn't have to reach that fifty percent plus one threshold. So I think they all had that standard definition, but I can't speak to what was in their minds in terms of -- you know, they all understood they had to make their own credibility assessment in each case.

Q Just in terms of procedure itself, are there any rules of evidence that are followed during the hearing?

A No, there is no evidence typically submitted at the hearing. The evidence is all gathered prior to the hearing. If there's any evidence of, you

J. Lipari

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1 know, photographs, that sort of thing, I  
2 provide that to the board members prior to  
3 the hearing.  
4

5 Q So I guess what I'm getting at  
6 though, is hearsay is allowed at these  
7 hearings?

8 A Well, people can say anything  
9 they want but we have discussed with the  
10 board members about, you know, hearsay and  
11 how unreliable that as. And so, you know, I  
12 would be careful with that. If someone's  
13 testifying and they say, so and so told me  
14 this, we don't stop them from saying it, we  
15 just, you know, take it with a grain of salt.

16 Q So the panel members can consider  
17 it, it's up to them what weight to give to  
18 it?

19 A Exactly.

20 Q So there's no formal rule then on  
21 what they can and cannot consider?

22 A No formal rule, right.

23 Q That's just up to their  
24 discretion?

25 A And, you know, some of the

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training and discussions we have, yeah.

Q Your investigation in terms of Mr. Grant's claim indicated that the police officers involved intentionally misrepresented some facts in the report; is that correct?

A I would have to have my report in front of me to say -- to tell you exactly what I said. I think what I would have probably done in the report was say that the complainant and the officer -- witness and the officers, both of those in some cases, didn't -- were contradictory. I would've pointed out inconsistencies between the testimony, but I don't, you know, I leave the credibility assessments to the panel members. So I would kind of present what was said and then they would have -- what was said and then whatever evidence there is and they would have to weigh all that to make a decision.

Q In Mr. Grant's case, do you know if the panel members make a determination as to the intent of someone's -- the intent

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1 behind someone's statement? And let me  
2 explain more clearly. What I mean by that is  
3 if someone makes a statement which the panel  
4 then later believes is inaccurate, how does  
5 the panel determine whether that was  
6 intentionally a misstatement or just  
7 something that they forgot or overlooked or  
8 didn't see or something like that?

10 A That would be a part of their  
11 deliberative discussion, that the board  
12 members would discuss it after the  
13 complainant witness left the room and, you  
14 know, they would, you know, using their  
15 own -- which I think this is directly from  
16 the assessing credibility, hand out from the  
17 County, the jurors. You know, you use your  
18 own background, your own knowledge, you --  
19 you know, your understanding of people's body  
20 language, you -- you know, whatever  
21 experience you have, you bring to the table  
22 and make a credibility assessment.

23 Q Do you know how that was done in  
24 Mr. Grant's case?

25 A No. I mean, I can't really speak

J. Lipari

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1 to -- I would suspect that the -- the panel  
2 had a discussion particularly because there  
3 was a truthfulness issue at stake in this  
4 case. They would have discussed it and  
5 decided, you know, what they thought was  
6 credible, what they thought wasn't credible,  
7 was this possible to do this, was it not  
8 possible to do this. And so that was  
9 essentially assessing the credibility of the  
10 complainants who were in front of them and  
11 who just testified before them and who they  
12 can ask questions of to test, you know, how  
13 accurate their statements are.

14  
15 Q You were present in the room when  
16 the panel members deliberated on Mr. Grant's  
17 case?

18 A Yeah. Typically I should be. I  
19 would -- what we would typically do is once  
20 all the testimony is done, all the  
21 questioning was done, I would walk the  
22 complainant and -- and/or witnesses if there  
23 were any down -- you know, bring them down  
24 the elevator, thank them for their time, you  
25 know, ask them how they felt about the



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process, try to get a little feedback. You know, consumer feedback so to speak, just to see if there was areas that we need to improve in terms of outreach or explaining the process to people. That would take me about five minutes and then I would go back up to the conference room where the hearing is being held, sit in and, you know, listen to the deliberations while the panel is deliberating.

I would -- typically I would miss like the first four or five minutes as I was walking the person down, but that's just them sort of getting started. I'd sit in and listen. I wouldn't intervene in their deliberations unless there was a point of fact where I had to point out, oh, no, it was such and such date, and you know, because I was the investigator I could point those things out.

But other than that, they would just deliberate until they made a decision.

Q Do the panel members consult you during the deliberations?

J. Lipari

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1  
2           A       If it's a question of fact, like  
3       I was just saying, like they're unsure did --  
4       did this happen on such and such date or, you  
5       know, who said this, they could check with  
6       me. I'd consult the record and tell them.  
7       If there was a policy question that would  
8       come up in their deliberations, they could  
9       ask me that kind of stuff. But that's really  
10      about it, you know.

11           Q       Are the witnesses that come  
12      before the panel, are they cross-examined?

13           A       They could be. If the officer  
14      came to the hearing, the officer could  
15      cross-examine the complainant or the  
16      officer's attorney could, but without them  
17      there, without the officer or the officer's  
18      legal representation there, the only people  
19      who ask questions are the panel members.

20           Q       So in Mr. Grant's case, there  
21      would not have been any cross-examination of  
22      the witnesses then?

23           A       By an opposing attorney, correct,  
24      but they were certainly questioned by the  
25      panel members.

J. Lipari

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Q And you mentioned earlier that --  
I just want to make sure I'm correct in this.  
In Mr. Grant's case, all your information was  
obtained from sources who were not the police  
officers other than their reports?

A Say that question again.

Q The information you got during  
the course of your investigation of Mr.  
Grant's claim, the only information you got  
from the police officers themselves was what  
they submitted in their reports?

A Correct, yeah. So their police  
reports, use of force reports, if they gave a  
10-1 statement to the Office of Professional  
Standards, we would have gotten that. That  
would all be in the file.

Q Earlier today, probably about  
three or four hours ago, I know it's going  
back, you mentioned in regard to Chief Fowler  
submitting letters to you in terms of what  
actions you took or did not take with regard  
to the panel findings, you used the term  
incident. That there was a point in time  
when he was making submissions to the CRB and

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1 then you said there was an incident, then he  
2 stopped doing that. Do you know what you  
3 were referring to?  
4

5 A Yep. You sure you want to ask  
6 that question?

7 Q It's going to come up in the --  
8 I'm going to work it into the CRB lawsuit.  
9 We will get there.

10 A So, let me take you through the  
11 whole sort of period or just that last  
12 period. I could try to do it fairly quickly.

13 Q Let me do this, Mr. Lipari.  
14 We're going to get to the CRB suit that's  
15 pending against the City. Maybe if you  
16 haven't answered then, we'll come back to it.  
17 How's that, to save some time?

18 A Okay.

19 Q You indicated that you had a  
20 meeting with Chief Fowler and he indicated  
21 something to you to the effect of making a  
22 change like that would get officers killed?

23 A Yeah, yeah, that use of force  
24 policy.

25 Q What change in particular was he

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stating that about; do you recall?

A I think it was just the general use of force policy that we were -- at that point we hadn't written our own use of force policy. We were recommending -- we were bringing forward the Las Vegas Metropolitan Police Department's use of force policy saying this is a good one that Syracuse should probably follow, should look at and, you know, base their changes on this Las Vegas use of force policy.

And that policy was floating around in the media and, you know, was available to people. So that was -- that -- it was that policy in particular, the Las Vegas Metropolitan Police Department's use of force policy that I was suggesting we need to go in the direction of and that's what he was responding to. So it's really the policy in general, not one specific aspect of the policy.

Q So Chief Fowler, then, in words of substance, expressed to you his concern that making the change would endanger the

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safety of officers?

A His comment that he made was, that won't happen on my watch, that's going to get officers killed.

Q And that was with regards to changing to what the Las Vegas Police Department was using?

A Correct.

And these are policies that are used all across the country, so. For the record, I didn't think that response had any merit to it. I thought he was wrong on that, but that's --

Q And why was that?

A Why did I think he was wrong?

Q Yes.

A Because the departments across the country are using it and they didn't see any increase in officers being harmed or killed whenever they instituted those policies. That's what the Department of Justice is recommending now and actually these policies keep officers safer.

Q You mentioned earlier, Mr.

J. Lipari

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Lipari, that the police chief serves at the pleasure of the mayor. With regard to that statement, is it your understanding then that all City employees with the exception of those particular unions serve at the pleasure of the mayor?

A It's different, I think for different employees. You know, you have to look at whatever ordinances or guidelines are in place. My understanding was that the chief serves at the pleasure of the mayor, being that the mayor hires and fires the chief. That's just sort of my -- sort of common understanding of it.

But your question was?

Q I was just trying to get -- was trying to see if there was any meaning you meant by that because it kind of threw me when you said that because I serve at the pleasure of the mayor; all City employees except for those, in particular, unions serve at the pleasure of the mayor. So I was just wondering if there was something else behind it.

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A No, no. I just meant the common uses of the phrase.

Q Okay. So there's no reason that you have to believe that Chief Fowler situation is any different in terms of serving at the pleasure of the mayor than all the other City employees who serve at her pleasure?

A I don't think so. I think in the charter that, you know, the relationship between the chief and the mayor is articulated in the charter, I believe. I want to say there are some -- no, I'm not an expert in labor law so I will steer away from that. Just a common understanding that --

Q Sure. And I might be reading too much into it, Mr. Lipari. I'm --

A I didn't mean anything other than that she hires and fires the chief.

Q You said -- and I know I'm skipping around here. Just trying to hit some of the points of your prior testimony. You mentioned in response to one of Mr. Ryder's questions that you may have had some



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follow-up calls with witnesses in Mr. Grant's case regarding some inconsistencies or things you noticed that looked like inconsistencies. Do you recall those conversations?

A No. I think I was just saying that in general. I do that occasionally, like say I've interviewed witnesses and then I go back and look at the records and something an officer said is different from the complainant, that it's not uncommon for me or wouldn't be uncommon for me to go back and call someone and say, can you clarify this or send the request to Office of Professional Standards asking them to clarify some of the things they said.

I don't remember if I had to do that in this case. We might be able to tell from the file if we have a file in front of us.

Q Mr. Lipari, I will show you what's previously been marked as Plaintiff's Exhibit 41. I know you answered some questions about that document earlier today.

Do you recall if the subject

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described in that report, the individual, do you recall if he received some psychological care after that incident?

A I don't recall. And that may not necessarily be disclosed to me unless they volunteer that information.

Q I see.

So if you were told that that particular subject was taken to the psychological emergency room in Syracuse after that incident, you wouldn't have knowledge of that unless they shared it?

A Yeah. I mean, we always got documents and then this person was transported to CPAP. If he was transported to CPAP from the scene, that would have been in the police report and so we would have seen that. I don't know -- remember in this case what happened to the individual after -- after it happened.

Q That's the only question I had on 41.

A Okay.

Q You talked earlier in response to

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Mr. Ryder's questions about officers, and I was unclear, was it just dropping charges against witnesses or defendants or was it just reducing them or both?

A Both.

Q Was it that officers -- and I'm sorry, was part of this issue was that officers were just choosing to not charge witnesses or they would say, I won't charge you if you cooperate or something like that?

A Yeah, it could happen in a number of ways. It could happen saying, look, so -- and it was usually something fairly minor, you know, you find a small amount of drugs in the car or something, and said, look, we won't give you a citation for this dope here if you can get me an illegal gun off the street, which is a lot of a goal if -- we all want to get illegal guns off the street.

MR. BONNER: NRA doesn't.

A Or it could happen where, you know, while I got to write you up for this one, but I won't include this one. So it was just, it could be -- happen in a variety of

J. Lipari

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different ways. It just depended on that -- the specifics of that particular instance.

Q So in this instance you just, you know, were just describing, and I know generally that was I guess, I'm trying to understand was that just the officer then saying, I'll exercise my discretion here and not charge you if you help us with something else?

A Well, that was the question. So officers have discretion not to charge someone when they observe a law -- a violation of the law. So it went to the DA's office and I asked them that question. They said no, they're -- they have to -- if they see a law violation, the person has to be charged. Now, they could come to the DA's office and say, you know, based on A, B, and C we would recommend that the charges be reduced to this or drop the charges, but ultimately the DA has to make that decision if there is going to be any protection involved in the person giving information on crimes or whatever. You know, you want the

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DA's office involved in that.

Q Was -- did the DA's office issue some sort of paper or statement or document about that issue?

A Rick may have put that in writing for me, I don't know. I know we had a phone call about it. I don't recall whether he put that in like a letter for me with the formal finding or anything, or if it was just a verbal confirmation over the phone. But either way, you know, that came from the DA's office.

Q From Mr. Trunfio?

A Yeah, correct.

Q And did that apply to all methods of charges; felonies, misdemeanors and violations?

A It would not apply to violations. Officers can use discretion for violations. This would be misdemeanors and higher.

Q So the violations, they have discretion?

A That, yeah.

Q According to Mr. Trunfio?

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A Correct.

Q I just wanted to clarify that because it kind of threw me when you said that. Like it was prosecuting every single speeding ticket they get --

A Yeah, right, for stuff like that there. Yes, there is discretion.

Q And you said the CRB issued a recommendation then based on Mr. Trunfio's advice or statements to the CRB?

A Yeah, that as either our 2012 or 2013 annual report where we sort of laid out the issue that this is what we have been seeing, this is what the complainant had been telling us, this is what the DA's office has reported to us, this is what we're recommending which is essentially to remind officers that, you know, in -- either in service training or roll calls, something, that you -- if it's -- that a crime was committed, you have to document it and check with the DA's office before -- you're not authorized to make any sort of informal deals with people when a crime is involved. That's

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the gist of it, but it's in the report.

Q You testified earlier that the Syracuse Police Department did, in fact, adopt your recommendation or did take action based on your recommendation?

A We saw no evidence that they formally adopted it or took action. What I said earlier was that we saw a decline in that happening where -- so we would still get complainants saying, after we made this recommendation, we would still get complainants saying, your officer tried to make a deal with me. He offered me, or, you know, the officer asked if I could get him an illegal gun. So we said okay. Our minds -- we've seen that before.

Our next question would be, did they mention anything about the DA's office? And then what we would start -- we started getting -- the response we started getting after we made that recommendation was, oh, yeah, they did mention the DA's office. They said we'd have to go before the DA and do this in writing. So I was saying that to

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1  
2 make a point that I think us, by raising the  
3 issue, even though it may not have been  
4 formally adopted, there was no new policy or  
5 training instituted as far as I know, the  
6 media report had gone on our recommendation.

7 And so, logically, some officers  
8 read it, some sergeants read it, so maybe  
9 it's trickled up as a positive benefit.

10 Q Thank you.

11 And you testified earlier about  
12 Syracuse Police Department following or  
13 adopting the CRB's recommendation on felony  
14 stops; is that correct?

15 A Same situation. So we raised the  
16 issue. As far as we're aware, they didn't  
17 change. Their policy was actually good;  
18 there was no problem with the existing  
19 policy. It was just that we're seeing  
20 officers following -- we were seeing officer  
21 running up to the cars in these dangerous  
22 situations. So after we made that  
23 recommendation and the media reported on it,  
24 we started getting cases where we saw them  
25 actually following the felony stop policy.



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1 So that's another situation where I think we  
2 raised the issue. Didn't necessarily see any  
3 formal training or new policy development  
4 just because we raised the issue, put it on  
5 the radar of some of the officers, maybe a  
6 sergeant, and they just became more aware of  
7 it, so.

8  
9 Q You testified earlier about there  
10 not being a -- I guess a clear definition of  
11 pattern or practice. Was there a particular  
12 definition that you used for those terms  
13 during while you were employed by CRB?

14 A My approach to that whole  
15 question is, are you seeing an activity  
16 occur, are the people in charge being made of  
17 aware of it, at least the allegations of it,  
18 and are they taking remedial action,  
19 corrective action, or at least investigative  
20 action to address it. So that's kind of how  
21 I, you know, applied the -- the pattern and  
22 practice sort of standard. Do I see it  
23 happening more than once of those in charge,  
24 the command staff being made aware of it, and  
25 are they doing anything about it? If they're

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doing something about it, I think you can argue that it's not a pattern and practice. Behavior can exist and you want -- and you're taking actions to stop it. On the other hand, you can have a situation where behavior is occurring and no action is being taken to stop it from continuing. And then if that's the case, then that's where I would feel you would have a pattern and practice.

Q So just to clarify there, Mr. Lipari, your understanding of pattern and practice, is that based on any sort of legal definition of pattern and practice?

A           That's the problem. In 14-141, it's not -- the pattern and practice is not specifically defined as a term. The phrase is used. So, you know, DOJ, when they apply pattern and practice to a department, they conduct investigation, they look at lots of documents, and they try to assess whether a behavior is occurring and whether there are systems in place to catch it and to stop it. And so it's -- for us -- for those of us in this field, it's more about do you have --

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have you been made aware of it and are you putting systems in place to try to stop it from continuing.

Q I just want to clarify though, so when you say your understanding of the definition of pattern and practice -- and also, I should add the word custom as well because I know that's commonly used by you as well, if that's something that you're taking from some sort of case law or statute or something or is it just as you understand in the field?

A That's how I understand in the field following the Department of Justice's lead.

Q I see.

Mr. Lipari, I just placed in front of you what's previously been marked as Plaintiff's Exhibit 55. Could you just take a quick second to just look that over again?

A Sure.

Q You made a statement in response to one of Mr. Ryder's questions about Exhibit 55, about a knee injury to the complainant in

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that. And I believe you said something along the lines of you hoped it didn't turn out to be as involved or serious as originally was stated or thought. Do you recall any further detail about that?

A I hope I was not going beyond the evidence there. No, I just remember something with his knee, either car struck his knee or that was claimed, and in his report he sort of described his injury, then we got the medical records and it didn't show any serious injury to his knee. Something like that. But I'd really have to look at the file to be sure what the nature was. I do remember there was something with a knee injury involved in this case -- or an alleged knee injury.

Q You said you were employed by Syracuse up until May of this year?

A Correct, yeah, first or second week of May that I left. I used some vacation days at the end of the process.

Q You testified earlier about the powers of the CRB. Do all the powers of the

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CRB at Syracuse CRB, do those arise from the enabling legislation, which I believe, as you mentioned, was local law 11 of 1993 and then number 1 of 2012?

A Correct.

Q I'm sorry, just so it's on the record, so that's your understanding, that's what powers of the CRB comes from?

A The core powers. Yeah.

Q Are there any other powers that come from somewhere else?

A The only reason I'm sort of thinking about that and hesitating is I can imagine a situation where the ordinance doesn't speak to something, like in a particular case or, you know, something arises and the ordinance just doesn't speak to it, and then you have to go to court and ask the judge to interpret it, and then the judge would tell you, you do have the power to do that or you don't. So the -- that's why I say the core powers and the central sort of powers of the CRB and its mechanism of functioning day to day is in the

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ordinance, but I can imagine the situation where a court could extend it outside of the ordinance or something that's just not spoken to in the ordinance.

Q Right. And I know that's what I'm getting at was obviously, the situation, we don't have to imagine, has arisen. The litigation that the CRB has filed against the City of Syracuse, that was something that was filed while you were the administrator of the CRB?

A Yes, correct.

Q And I'm going to state this just because I'm handling the litigation for the City so I'm aware of this, there's two separate actions that were filed by the CRB against the City based on the issue of powers of the CRB?

A So my question at this point is --

Q Is that correct?

A No, well, my question is -- is -- are we having a deposition about --

Q No, I'm not going to --

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A I ask because of that -- I would need legal counsel.

Q No, no. That's what I want to understand, your role in whether or not you'll still be the CRB advisor when that's filed. I'm not going to ask you substantive questions about that.

A I was the CRB administrator when the lawsuit filed, correct.

Q And did you verify the complaint that was filed?

MR. BONNER: I'm going to object.

MR. SICKINGER: This is a different topic.

MR. BONNER: This is outside the scope of this deposition.

MR. SICKINGER: That's fine. The record will be clear on that.

MR. BONNER: Yes. Do you want to call the judge?

MR. SICKINGER: No. I'm saying the record's clear that he verified it.

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MR. BONNER: Verified what?

MR. SICKINGER: The  
complaint.

MR. BONNER: That's outside  
of the scope of this.

MR. RYDER: As much as we'd  
love to hear the facts of that  
case, it's not relevant to our  
case.

MR. BONNER: Yes, this is  
irrelevant to Mr. Grant's case.

A I just wanted to go on the record  
that I wasn't clear what he was saying, I  
just verified. And my understanding, I  
didn't verify anything. I'm not sure what he  
was talking about when he said, you verified  
that. So I didn't verify anything as far as  
I'm concerned.

Q That's fine. You signed a  
verification. That's all I was saying. You  
don't have to answer that.

Just so you were clear, you  
signed a verification, it's public record and  
now --



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A That we filed a lawsuit, right.

Q Got you. That's all I'm trying to say.

A Okay. I didn't know what -- the word verification threw me off. I didn't know what you were referring to then.

Q So litigation was brought against the City of Syracuse by the CRB while you were the administrator of the CRB?

A The board initiated a lawsuit to force the chief of police -- again I think this is outside --

MR. BONNER: Yes.

Q All I want to know is, you were the administrator?

A I was the administrator when the board initiated a lawsuit against the chief, correct.

Q That's all I was looking for. You testified earlier about some timeframes or deadlines?

A I did, yes.

Q I'm sorry, was there an objection?

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MR. BONNER: No.

Q Mr. Lipari, with regard to -- with regard to the deadlines, I guess I'm just trying to find the quickest way to do this. You testified as to sort of a timeframe?

A Uh-huh, yes.

Q With regard to when the CRB was supposed to get a complaint, and how many days they have to respond, et cetera, were those the timeframes that were in place when you assumed the position in 2012 of administrator of the CRB?

A Again, I think this is about a different topic. This is about a lawsuit and I had legal counsel.

Q I'm asking you about your testimony this morning.

A Fair enough, but that was in a context when we were talking about this case.

MR. BONNER: Exactly.

Q Right. With the guidelines that were used in Mr. Grant's case, were those the guidelines that were in place when you

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assumed the position?

A Were the guidelines --

Q Timeframes I should say, I'm  
sorry.

A Say it again now.

Q Were the timeframes for CRB  
action that were in place when you handled  
Mr. Grant's claim, were those the timelines  
that were in place throughout your tenure as  
CRB administrator?

A Yes.

Q All I'm trying to find out is,  
have they changed? That's all I'm trying to  
get to.

A Okay, no, they did not change  
within the ordinance. We did, as you know --  
never mind.

Q I'm trying to keep you on point,  
Mr. Lipari.

A Sorry.

Q So then your dates of tenure I  
think were 2012 to 2016?

A May 16, 2012 to I don't know the  
exact date that I just ended, but it was

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May -- first or second week of May, 2016.

Q And the dates were -- timeframes  
were all the same during that four-year  
period?

A Correct.

MR. BONNER: And just for  
clarification, I think you said  
you started in May of 2012.

THE WITNESS: Correct.

MR. BONNER: And you ended  
in May of 2016?

THE WITNESS: Correct.

MR. SICKINGER: Just off the  
record.

(Whereupon, a discussion was  
held off the record.)

Q I just have one more question,  
Mr. Lipari. It's really just a clarification  
of your earlier testimony.

I was asking you about your  
understanding of the definitions of pattern  
and practice and how you apply them, and I  
also mentioned that you used the word custom  
a lot in your -- the word custom is used a

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1 lot.

2  
3 A I know the word custom is used a  
4 lot but I don't think I used the word custom.

5 Q And I guess I'm just trying to  
6 clarify for the same question, basically, I  
7 asked you with pattern and practice. Is  
8 that -- do you have a legal definition of the  
9 word custom that is used in processing CRB  
10 complaints, or do you not use that word?

11 A We would use -- I don't use that  
12 word as much as pattern and practice. In our  
13 field, we typically use the phrase pattern  
14 and practice even though I know the legal --  
15 in the monell language, it says pattern and  
16 practice or custom. But in our field, we use  
17 -- just use pattern and practice.

18 Q So custom is not something that  
19 you would use in the CRB reports or in your  
20 investigation?

21 A I don't think I typically use  
22 custom in -- in my reports just because in  
23 our field, like I said, that's the phrase we  
24 use, but we all recognize that it refers to  
25 the monell language as pattern and practice

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and custom.

It just gets so many words. It's  
a mouthful.

Q So then your understanding of  
custom, that is the same as your answer for  
pattern and practice?

A Yes.

MR. SICKINGER: That's all I  
have for you, Mr. Lipari. I  
appreciate your time.

I am ordering a copy of  
today's transcript.

-o0o-

(Whereupon, the deposition  
of JOSEPH LEO LIPARI was  
concluded at 3:25 p.m.)

\_\_\_\_\_  
JOSEPH LEO LIPARI

Subscribed and sworn to  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2016

\_\_\_\_\_  
NOTARY PUBLIC

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I N D E X

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44	Finding letter for Case #13-020 and #13-021	66
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46	Finding letter for CRB #13-100	79
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C E R T I F I C A T E

I, Jennifer M. Juliani, a reporter  
and Notary Public within and for the  
State of New York, do hereby certify:

That the witness(es) whose  
testimony is hereinbefore set forth was  
duly sworn by me, and the foregoing  
transcript is a true record of the  
testimony given by such witness(es).

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, and that I  
am in no way interested in the outcome  
of this matter.



JENNIFER M. JULIANI

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## ERRATA SHEET

The following are my corrections to the attached transcript:

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